



भारत का राजपत्र

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NEW DELHI, APRIL 1—APRIL 7, 2012, SATURDAY/CHAITRA 12—CHAITRA 18, 1934

भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक् संकलन के रूप में रखा जा सके।
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सार्विधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

मुख्य आयकर आयुक्त का कार्यालय
(आयकर विभाग)

मदुरै, 13 मार्च, 2012

का. आ. 1227.—निर्धारिति का नाम एवं पता

: मै. सेतु एजुकेशन ट्रस्ट,
392, अन्ना नगर
मुद्रै-625 020

पैन : एएबीटीएस 7415 सी

आयकर अधिनियम, 1961 की धारा 10 (23सी) (vi) के अधीन
अनुमोदन

मद्रास उच्च न्यायालय के मुद्रै बैंच के फलस्वरूप आदेश डब्ल्यू.पी.
(एमडी) सं. 8828/2011 में

मैं, मुख्य आयकर आयुक्त, मदुरै आयकर अधिनियम, 1961
(1961 का 43) की धारा 10 के खण्ड (23सी) के उप-खण्ड (vi)
के साथ पठित आयकर नियम, 1962 के नियम 2 सीए द्वारा प्रदत्त
शक्तियों का प्रयोग करते हुए उपरोक्त उप-खण्ड में बताए गए
प्रयोजनों के लिए निर्धारण वर्ष 2010-11 से मै. सेतु एजुकेशन ट्रस्ट,
मदुरै को निम्नलिखित शर्तों के अनुसार अनुमोदन दिया जाता है :

2. (i) धारा 10 (23सी) (vi) के संरक्षण की अनुरूपता
के साथ निर्धारिति की गतिविधियां न्यास विलेख के
अनुसार प्रामाणिक हैं और शर्त के अनुसार निर्धारिति
गैर-शिक्षा गतिविधियों में नहीं लगेगा।
- (ii) अधिनियम की धारा 10 (23सी) के तीसरे परन्तु
से अपेक्षित निर्धारिति अपनी आय का उन उद्देश्यों
के लिए, जिनके लिए उसकी स्थापना की गई है,
पूर्णतः और अनन्यतः उपयोग करता है।
- (iii) निर्धारिति आयोजित पाठ्यक्रमों के लिए कोई
प्रतिव्यक्त शुल्क नहीं लेगा तथा सरकार द्वारा
समय-समय पर निर्धारित मार्गदर्शन को सख्ती से
पालन करेगा।
- (iv) आयकर अधिनियम, 1961 की धारा 11 की उप-धारा
(5) में विनिर्दिष्ट एक या अधिक रूपों या पद्धतियों
में किसी भी अवधि के लिए निर्धारिति अपनी निधि
से अन्यथा निवेशों या निक्षेपों (आभूषण एवं फर्नीचर
या ऐसी वस्तु के रूप में प्राप्त और रखे गए स्वैच्छिक
अभिदाय के अलावा) में नहीं करेगा।

- (v) यह अनुमोदन किसी ऐसी आय के लिए लागू नहीं होगा जो कारोबार, व्यापार से लाभ और अधिलाभ प्राप्त होता है, जब तक कारोबार ट्रस्ट के लक्ष्यों की प्राप्ति के लिए है तथा ऐसे कारोबार के लिए अलग बही-खाते रखा जा रहा है।
- (vi) आयकर अधिनियम, 1961 के प्रावधानों के अनुरूप निर्धारिती आयकर प्राधिकारी के समक्ष नियमितता से आय विवरणी फाइल करेंगे।
- (vii) इसके भंग होने पर उसके अधिशेष एवं आस्तियाँ ऐसे संगठन को दी जाएंगी जो पूर्णतः ऐसे ही प्रयोजनों के लिए है और लाभ के प्रयोजनार्थ नहीं है और आयकर अधिनियम, 1961 की धारा 13 (3) में विनिर्दिष्ट अनुसार उसका कोई भी भाग प्रत्यक्ष रूप से निर्धारितों के हिताधिकारी या अन्य किसी को नहीं जाएगा।
- (viii) अधिनियम की धारा 10 (23सी) के पंद्रहवें परन्तुक तथा धारा 115 बीबीसी के साथ पठित यह अनुमोदन अनाम संदानों के लिए लागू नहीं होगा।
- (ix) धारा 143 (3) के परन्तुक के प्रावधानों के अधीन अनुमोदन स्वीकृत किया जाएगा।

3. यदि यह बाद में पता लगता है कि अनुमोदन फर्जी या तत्थ के अन्यथा-कथन द्वारा लिया गया है तो उसे शून्य माना जाएगा। अनुमोदन आयकर अधिनियम, 1961 की धारा 10 (23सी) (vi) के प्रयोजन के लिए दिया गया है तथा अन्य किसी प्रयोजन के लिए नहीं और अनुमोदन वापस ले लिया माना जाएगा यदि निर्धारिती की गतिविधियाँ प्रामाणिक नहीं हैं या गतिविधियाँ स्वीकृत अनुमोदन में उल्लिखित सभी या किन्हीं शर्तों के अनुसार नहीं की जा रही हो।

[फा. सी. सं. 2113/11/मु.आ./मदुरै/तक./2009-10]

डी. के. दास शर्मा, मुख्य आयकर आयुक्त

OFFICE OF THE CHIEF COMMISSIONER OF INCOME-TAX

(Income-tax Department)

Madurai, the 13th March, 2012

S.O. 1227.—Name and Address of the Assessee

: M/s. Sethu Educational Trust
392, Anna Nagar
Madurai 625 020

PAN : AABTS 7415C

Order under section 10 (23C) (vi) of the Income-tax Act, 1961 in consequence of the order of the Madurai Bench of Madras High Court in W.P. (MD) No. 8828 of 2011

In exercise of the powers, conferred on me by virtue of sub-clause (vi) of clause, (23C) of section 10 of the

Income tax, 1961 read with Rule 2C of the IT Rules, 1962, I, the Chief Commissioner of Income-tax, Madurai hereby accord approval to M/s. Sethu Educational Trust, Madurai for the purpose of the said section from the assessment year 2010-11 subject to conditions, mentioned hereunder:

- 2 (a) the activities of the assessee are genuine in accordance with the trust deed as well as in conformity with coverage of section 10(23C)(vi) and subject to the condition that the assessee will not engage in non-educational activities;
- (b) the assessee applies its income, or accumulates its income for application, wholly and exclusively, for the educational objects for which it is established and application of its income must be in accordance with Third Proviso to section 10(23C) of the Act;
- (c) the assessee will not charge any capitation fees for the courses conducted and strictly follow such guidelines prescribed by the Government from time to time in this regard;
- (d) the assessee will not invest or deposit its funds (other than voluntary contributions received and maintained in the form of jewellery, furniture, etc.,) for any period during the previous years relevant to the assessment years mentioned above otherwise than in anyone or more of the forms or modes specified in sub-section (5) of section 11 of the IT Act, 1961;
- (e) this approval will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the trust and separate books of accounts are maintained in respect of such business;
- (f) the assessee will regularly file its return of income before the Income-tax authority in accordance with the provisions of the Income tax Act, 1961;
- (g) that in the event of its dissolution, its surplus and assets will be given to an organization which exists solely for similar purposes and not for purposes of profit and no part of the same will go directly to any of the beneficiaries of the institution or anybody specified in section 13(3) of the Income-tax Act, 1961;
- (h) the approval shall not apply in relation to anonymous donations in terms of the fifteenth proviso to section 10(23C) r.w.s. 115BBC of the Act;
- (i) the approval granted shall be subject to the provisions of proviso to section 143(3);

3. The approval shall be void if it is subsequently found that it has been obtained by fraud or misappropriation

of fact. This approval is given only for the purpose of Section 10(23C)(vi) of the Income-tax Act, 1961 and not for any other purpose/s and the same is liable to be withdrawn if it is subsequently found that the activities of the assessee are not genuine or if they are not carried out in accordance with all or any of the conditions subject to which it was approved.

[F. No. C. 2113/11/CC/MDU/Tech./2009-10]

D. K. DAS SHARMA, Chief Commissioner of Income-Tax

वित्त मंत्रालय
(राजस्व विभाग)
(केन्द्रीय उत्पाद शुल्क आयुक्तालय)
लुधियाना, 30 मार्च, 2012
सं. 01/2012-सी.शु. (गै.ई.)

का. आ. 1228.—भारत सरकार, वित्त मंत्रालय, राजस्व विभाग, नई दिल्ली के सीमा-शुल्क अधिनियम, 1962 (52 का 1962) के खण्ड 9 और अधिसूचना संख्या 33/94-सीमा-शुल्क (गै.ई.), दिनांक 1-7-1994 में जारी किये गये प्राधिकारों के अनुरूप ग्राम खंगूरा और महत, तहसील फगवाड़ा, जिला कपूरथला, राज्य पंजाब को 100 प्रतिशत निर्यातोन्मुख इकाई (EOU) के रूप में भंडारागार केन्द्र (Warehousing Station) घोषित किया जा रहा है।

[फा. सं. सी. IV(16) तक/कयाको इंफोटेक/लुधि./39/10]

राजीव भाटिया, आयुक्त

MINISTRY OF FINANCE

(Department of Revenue)

(OFFICE OF THE COMMISSIONER OF CENTRAL EXCISE)

Ludhiana, the 30th March, 2012

No. 01/2012-Cus (NT)

S.O. 1228.—In exercise of the powers conferred under Section 9 of the Customs Act, 1962 (52 of 1962) read with Notification No. 33/94-Customs (NT), dated 1-7-1994, as amended of the Government of India, Ministry of Finance, Department of Revenue, New Delhi, Village Khangura and Mehat, Tehsil Phagwara of District Kapurthala, in the State of Punjab is hereby declared to be a Warehousing Station under the Customs Act, 1962 (52 of 1962) for the purpose of setting up of 100% Export Oriented Unit.

[F. C. No. IV (16) Tech/Kayako Infotech/Ldh/39/10]

RAJIV BHATIA, Commissioner

सूचना और प्रसारण मंत्रालय
नई दिल्ली, 27 फरवरी, 2012

का. आ. 1229.—इस मंत्रालय की दिनांक 19-1-2012 की समसंख्यक अधिसूचना के क्रम में तथा चलचित्र (प्रमाणन) नियम, 1983 के नियम 7 व 8 के साथ पठित चलचित्र अधिनियम, 1952 (1952 का 37) की धारा 5 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, केन्द्रीय फिल्म प्रमाणन बोर्ड के तिरुवनंतपुरम सलाहकार पैनल में निम्नलिखित व्यक्तियों को तत्काल

प्रभाव से दो वर्षों की अवधि के लिए अथवा अगले आदेशों तक, जो भी पहले हो, अतिरिक्त सदस्यों के रूप में नियुक्त करती है।

क्रम सं. नाम

1. श्री के. नंदकुमार
2. श्री बी. शशि कुमार
3. श्री अनिल वी. थोमस
4. श्री रवि कोट्टाराकारा
5. श्री पी.वी. बशीर अहमद
6. श्री सी. वी. रामाकृष्णन
7. श्रीमती मेनका सुरेश
8. श्रीमती चिप्पी रंजीत
9. श्रीमती मर्लिन्स का सुकुमारन
10. श्रीमती एस.एस.टी सुब्रमण्यम्
11. श्री पी. नारायणकुट्टी
12. श्री सी. आर. महेश
13. श्री पी.पी. जेम्स

[फा. सं. 809/6/2011-एफ (सी)]

निरूपमा कोत्रु, निदेशक (फिल्म)

MINISTRY OF INFORMATION AND BROADCASTING

New Delhi, the 27th February, 2012

S.O. 1229.—In continuation of this Ministry's Notification of even number, dated 19-1-2012 and in exercise of the powers conferred by sub-section (1) of Section 5 of the Cinematograph Act, 1952 (37 of 1952) read with rules 7 and 8 of the Cinematograph (Certification) Rules, 1983, the Central Government is pleased to appoint the following persons as additional members to the Thiruvananthapuram Advisory panel of the Central Board of Film Certification with immediate effect for a period of two years or until further orders, whichever is earlier.

S. No. Name

1. Shri K. Nandakumar
2. Shri B. Shashi Kumar
3. Shri Anil V. Thomas
4. Shri Ravi Kottarakara
5. Shri P.V. Basheer Ahammed
6. Shri C.V. Ramakrishnan
7. Smt. Menaka Suresh
8. Smt. Chippy Ranjith
9. Smt. Mallika Sukumaran
10. Smt. S.S.T. Subramaniam
11. Shri P. Narayanankutty
12. Shri. C.R. Mahesh
13. Shri P.P. James

[F. No. 809/6/2011-F(C)]

NIRUPAMA KOTRU, Director (Films)

नई दिल्ली, 6 मार्च, 2012

का. आ. 1230.—चलचित्र (प्रमाणन) नियम, 1983 के नियम 7 और 8 के साथ परिवर्तन चलचित्र अधिनियम, 1952 (1952 का 37) की धारा 5 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, केन्द्रीय फ़िल्म प्रमाणन बोर्ड का कोलकाता सलाहकार पैनल गठित करती है तथा निम्नलिखित व्यक्तियों को तत्काल प्रभाव से दो वर्षों की अवधि के लिए अथवा अगले आदेशों तक, जो भी पहले हो, उक्त पैनल के सदस्य के रूप में नियुक्त करती है। यह अधिसूचना इस मंत्रालय की दिनांक 11 नवम्बर, 2009 की अधिसूचना सं. 809/3/2008-एफ (सी) के अधिक्रमण में जारी की जा रही है।

क्रम सं. नाम

1. श्रीमती सिप्रा भट्टाचार्य
2. श्रीमती अमाला शंकर
3. श्री विधास चक्रवर्ती
4. श्री शुभाप्रसन्ना
5. श्री सुबीर सेन
6. श्री प्रतुल मुख्यर्जी
7. श्री मनीष मित्रा
8. श्रीमती अनन्या चटर्जी
9. श्री सुनन्दा सन्याल
10. श्री नचिकेता
11. श्री मानस घोष
12. श्री कुनाल घोष
13. श्री अरूप शंकर मैत्रा
14. श्री प्रभात रौय
15. श्री जीत गांगुली
16. श्री गौरव चटर्जी
17. सुश्री नवामिता चटर्जी
18. श्री रंजीत मलिक
19. श्री जीत
20. श्रीमती नयना बैनर्जी
21. श्रीमती रचना बैनर्जी
22. श्री शुभाशीष मुख्यर्जी
23. श्री गौतम घोष
24. श्री परीक्षित बाला
25. श्री शांतनु रौय चौधरी

26. श्री सच्चिदानन्द बैनर्जी
27. सुश्री सुब्रा घोष
28. डॉ. माया रानी घोष
29. डॉ तपन कुमार सारादर
30. सुश्री निला मजूमदार
31. सुश्री गायत्री उर्वशी भट्टाचार्य
32. प्रो. रतन नंदी
33. डॉ पर्वीन बानु
34. श्री सुजीत कुमार मुखोपाध्याय
35. श्री सुजीत पटवारी
36. श्री जयंता दास
37. श्री माहम्मद जाहर
38. श्री रविंद्र अनम चौधरी
39. श्री अरित मजूमदार
40. श्री प्रदीप घोष
41. सुश्री दर्शन शाह
42. श्री कुमार शाह
43. श्री सौमित्रा रौय
44. श्री प्रथा गुहा
45. श्री नवीन सैनी
46. श्री देव नारायण शाह
47. श्री सुजीत कुमार
48. श्री नीलेश के हेमानी
49. श्री निशांत प्रकाश
50. श्री विजयंय कृष्णा रौय
51. श्रीमती संगीता मुखोपाध्याय
52. सुश्री सुष्मिता घोष
53. सुश्री कविता रहमान
54. सुश्री पायल सिंह मोहनका
55. सुश्री कौशिका रौय
56. सुश्री उषा चौधरी
57. श्री अमल घोष
58. श्री कलाम मोंडाल
59. श्री ज्योर्तिमय मैती
60. श्री त्रिलोकनाथ उपाध्याय

[फा. सं. 809/8/2011-एफ (सी)]

निरूपमा कोतरू, निदेशक (फिल्म)

New Delhi, the 6th March, 2012

S.O. 1230.—In exercise of the powers conferred by sub-section (1) of Section 5 of the Cinematograph Act, 1952 (37 of 1952) read with rules 7 and 8 of the Cinematograph (Certification) Rules, 1983, the Central Government is pleased to constitute the Kolkata advisory panel of the Central Board of Film Certification and to appoint the following persons as members of the said panel with immediate effect for a period of two years or until further orders, whichever is earlier. This supersedes this Ministry's Notification No.809/3/2008-F(C) dated 11th November, 2009.

S. No. Name

1. Mrs. Sipra Bhattacharya
2. Mrs. Amala Sankar
3. Shri Bibhas Chakraborty
4. Shri Shuvaprasanna
5. Shri Subir Sen
6. Shri Pratul Mukherjee
7. Shri Manish Mitra
8. Mrs. Ananya Chatterjee
9. Shri Sunanda Sanyal
10. Shri Nachiketa
11. Shri Manas Ghosh
12. Shri Kunal Ghosh
13. Shri Arup Sankar Maitra
14. Shri Prabhat Roy
15. Shri Jit Ganguli
16. Shri Gaurav Chatterjee
17. Ms. Nabarnita Chatterjee
18. Shri Ranjit Mallick
19. Shri Jit
20. Smt. Nayana Banerjee
21. Smt. Rachana Banerjee
22. Shri Subhasis Mukherjee
23. Shri Gautam Ghosh
24. Shri Parikshit Bala
25. Shri Santanu Roy Chowdhury
26. Shri Sachchidananda Banerjee
27. Ms. Suvra Ghosh
28. Dr. Maya Rani Ghose
29. Dr. Tapan Kumar Saradar
30. Ms. Nila Mazumder
31. Ms. Gayatri Urbasi Bhattacharyya
32. Prof. Ratan Nandi
33. Dr. Parvin Banu
34. Shri Sujeet Kumar Mukhopadhyay
35. Shri Sujeet Patwari
36. Shri Jayanta Das
37. Shri Mohammad Jahar
38. Shri Rabiul Anam Chowdhury
39. Shri Arit Majumder
40. Shri Pradip Ghosh
41. Ms. Darshan Shah
42. Shri Kumar Saha

43. Shri Soumitra Roy
44. Shri Partha Guha
45. Shri Navin Saini
46. Shri Deo Narayan Sah
47. Shri Sujeet Kumar
48. Shri Nilesh K. Hemani
49. Shri Nishant Prakash
50. Shri Bejoy Krishna Roy
51. Mrs. Sangeetha Mukhopadhyay
52. Ms. Susmita Ghosh
53. Ms. Kabita Rahman
54. Ms. Payal Singh Mohanka
55. Ms. Kaushika Roy
56. Ms. Usha Chowdhury
57. Shri Amal Ghosh
58. Shri Kalam Mondal
59. Shri Jyotirmoy Maiti
60. Shri Triloknath Upadhyay

[F. No. 809/8/2011-F(C)]

NIRUPAMA KOTRU, Director (Films)

नई दिल्ली, 12 मार्च, 2012

का. आ. 1231.—इस मंत्रालय की दिनांक 19-1-2012 की समसंख्यक अधिसूचना के क्रम में चलचित्र (प्रमाणन) नियम, 1983 के नियम 7 व 8 के साथ पटित चलचित्र अधिनियम, 1952 (1952 का 37) की धारा 5 की उप-धारा (1) के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार श्री एन. सी. सेन को तत्काल प्रभाव से दो वर्ष की अवधि या अगले आदेशों तक, जो भी पहले हो, केन्द्रीय फिल्म प्रमाणन बोर्ड के तिरुवनंतपुरम सलाहकार पैनल के अतिरिक्त सदस्य के रूप में नियुक्त करती है और साथ ही, एतद्वारा केन्द्रीय फिल्म प्रमाणन बोर्ड के तिरुवनंतपुरम सलाहकार पैनल से सदस्य के रूप में श्री ए. माधवन पिल्लै के नाम को तत्काल प्रभाव से विलोपित करती है।

[फा. सं. 809/6/2011-एफ (सी)]

निरुपमा कोतरू, निदेशक (फिल्म)

New Delhi, the 12th March, 2012

S.O. 1231.—In continuation of this Ministry's Notification of even number, dated 19-1-2012 and in exercise of the powers conferred by sub-section (1) of Section 5 of the Cinematograph Act, 1952 (37 of 1952) read with rules 7 and 8 of the Cinematograph (Certification) Rules, 1983, the Central Government is pleased to appoint Shri N.C. Senan as additional member to the Thiruvananthapuram Advisory Panel of the Central Board of Film Certification with immediate effect for a period of two years or until further orders, whichever is earlier and also hereby removes name of Shri A. Madhavan Pillai as a member from the Thiruvananthapuram Advisory Panel of the Central Board of Film Certification with immediate effect.

[F. No. 809/6/2011-F (C)]

NIRUPAMA KOTRU, Director (Films)

उपभोक्ता मामले खाता और सार्वजनिक विवरण मंत्रालय

(उपभोक्ता मामले विभाग)

(भारतीय मानक ब्यूरो)

नई दिल्ली, 20 मार्च, 2012

का.आ. 1232.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खण्ड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिए गए हैं, वे स्थापित हो गए हैं :—

अनुसूची

क्रम सं.	स्थापित भारतीय मानक(कों) की संख्या, वर्ष और शीर्षक	नवे भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1.	आई एस 6489(भाग 2) : 2011 वस्त्रादि - वस्त्रों के विवरण के गुण भाग-2 पतलून के आकार के नमूनों का विवरण बल ज्ञात करना (एकल विवरण पद्धति द्वारा) दूसरा पुनरीक्षण	—	31-12-2011

इस भारतीय मानक की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों: नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों: अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तपुरम में बिक्री हेतु उपलब्ध हैं।

[फा. सं. टी एक्स डी/जी-25]

अनिल कुमार, प्रमुख एवं वैज्ञानिक 'ई' (टी एक्स डी)

MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION

(DEPARTMENT OF CONSUMER AFFAIRS)

(BUREAU OF INDIAN STANDARDS)

New Delhi, the 20th March, 2012

S. O. 1232.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards particulars of which are given in the Schedule hereto annexed have been established on the date indicated against it:—

SCHEDULE

Sl. No.	No. and year of the Indian Standards Established	No. and Year of Indian Standards, if any, Superseded by the New Indian Standard	Date of Established
(1)	(2)	(3)	(4)
1.	IS 6489(Part 2) : 2011/ISO 13937-2 : 2000 Textiles-Tear Properties of Fabric Part-2 Determination of Tear Force of Trouser Shaped Test Specimens (Single Tear Method) (Second Revision)	—	December, 2011

Copy of these Standards are available for sale with HQ at Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-1100 02 and its Regional Offices: New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices: Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune and Thiruvananthapuram.

[F. No. TXD/G-25]

ANIL KUMAR, Scientist 'E' & Head (Textiles)

नई दिल्ली, 23 मार्च, 2012

का.आ. 1233.—भारतीय मानक व्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खण्ड (ख)के अनुसरण में भारतीय मानक व्यूरो एतद्वारा अधिसूचित करता है कि जिस भारतीय मानकों का विवरण नीचे अनुसूची में दिया गया है वे स्थापित हो गये हैं :—

अनुसूची

क्रम सं.	स्थापित भारतीय मानक (कों)	नये भारतीय मानक द्वारा	स्थापित तिथि
(1)	(2)	(3)	(4)
1.	आई एस 16107 (भाग 2/अनुभाग 1) : 2012 सहायकांग कार्यकारिता भाग 2 कार्यकारिता अपेक्षाएं खण्ड 1 एल ई डी सहायकांग	—	23 मार्च, 2012
2.	आई एस 16107 (भाग 1) : 2012 सहायकांग कार्यकारिता भाग 1 सामान्य अपेक्षाएं	—	23 मार्च, 2012

इन भारतीय मानकों की प्रतियाँ भारतीय मानक व्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों: नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुबनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूजे तथा तिरुवनंतपुरम में बिक्री हेतु उपलब्ध हैं।

[फा. सं. ई टी 24/टी-113 व टी-114]
आर. के. त्रेहन, वैज्ञानिक “ई” एवं प्रमुख (विद्युत तकनीकी)

New Delhi, the 23rd March, 2012

S. O. 1233.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards particulars of which are given in the Schedule hereto annexed have been issued:—

SCHEDULE

Sl. No.	No. and Year of the Indian Standards	No. and Year of the Indian Standards, if any, Superseded by the New Indian Standard	Date of Establishment
(1)	(2)	(3)	(4)
1.	IS 16107 (Part 2/Sec 1) : 2012 Luminaires Performance Part 2 Particular Requirements, Section 1 Led Luminaire	-	23 March, 2012
2.	IS 16107 (Part 1) : 2012 Luminaires Performance Part 1 General Requirements,	-	23 March, 2012

Copies of these Standards are available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune and Thiruvananthapuram.

[F. No. ET 24/T-113 & T-114]

R. K. TREHAN, Scientist 'E' & Head (Electrotechnical)

नई दिल्ली, 23 मार्च, 2012

का.आ. 1234.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खण्ड (ख)के अनुसरण में भारतीय मानक ब्यूरो एवंद्वारा अधिसूचित करता है कि जिस भारतीय मानकों का व्यवरण नीचे अनुसूची में दिया गया है वे स्थापित हो गये हैं :—

अनुसूची

क्रम सं.	स्थापित भारतीय मानक (कों)	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1.	आई एस 16103 (भाग 2) : 2012 सामान्य प्रकाश व्यवस्था के लिए एल ई डी मौड्यूल भाग 2 - कार्यकारिता अपेक्षाएँ	—	23 मार्च 2012

इस भारतीय मानक की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों: नई दिल्ली, कोलकाता, चंडीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तपुरम में विक्री हेतु उपलब्ध हैं।

[फ. सं. ई टी 23/टी-100]

आर. के. त्रेहन, वैज्ञानिक "ई" एवं प्रमुख (विद्युत तकनीकी)

New Delhi, the 23rd March, 2012

S. O. 1234.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards particulars of which are given in the Schedule hereto annexed have issued:—

SCHEDULE

Sl. No.	No. and year of the Indian Standards	No. and Year of Indian Standards, if any, Superseded by the New Indian Standard	Date of Establishment
(1)	(2)	(3)	(4)
1.	IS 16103 (Part 2) : 2012 LED Modules for General Lighting - Part 2- Performance Requirements	—	23 March, 2012

Copies of these Standards are available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune and Thiruvananthapuram.

[F. No. ET 23/T-100]

R. K. TREHAN, Scientist 'E' & Head (Electrotechnical)

नई दिल्ली, 28 मार्च, 2012

का.आ. 1235.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खण्ड (ख)के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन भारतीय मानकों का विवरण नीचे अनुसूची में दिए गए हैं वे स्थापित हो गए हैं :—

अनुसूची

क्रम सं.	स्थापित भारतीय मानक (को)	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1.	आई एस 5113 : 2012/आई एस ओ 3730 : 1988 पोत निर्माण - मूरिंग विन्च (दूसरा पुनरीक्षण)	5113 : 1979	29 फरवरी, 2012
2.	आई एस 15926 : 2012/आई एस ओ 14829 : 2002 मालधारक - मालधारकों के पृहत्तान के लिए सहपाश्वर वाहक - स्थायित्व का परिकलन	—	29 फरवरी, 2012

इस भारतीय मानक की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों: नई दिल्ली, कोलकाता, चंडीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों: अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तपुरम में बिक्री हेतु उपलब्ध हैं।

[फा. सं. टी ई डी/जी-16]

टी. बी. सिंह, वैज्ञानिक 'एफ' एवं प्रमुख (टी ई डी)

New Delhi, the 28th March, 2012

S. O. 1235.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards particulars of which are given in the Schedule hereto annexed have been established on the date indicated against each :—

SCHEDULE

Sl. No.	No., year and title of the Indian Standards established	No. and Year of Indian Standards, if any, Superseded by the New Indian Standard	Date of Established
(1)	(2)	(3)	(4)
1.	IS 5113:2012/ISO 3730:1988 Shipbuilding - Mooring winches (second revision)	5113:1979	29 February, 2012
2.	IS 15926:2012/ISO 14829:2002 Freight containers - Straddle carriers for freight container handling - Calculation of stability	—	29 February, 2012

Copy of this Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices: New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices: Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune and Thiruvananthapuram.

[F. No. TED/G-16]

T.V. SINGH, Scientist 'F' & Head (Transport Engg.)

नई दिल्ली, 28 मार्च, 2012

का.आ. 1236.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम, 1988 के नियम 4 के उपनियम 5 के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन लाइसेंसों के विवरण नीचे अनुसूची में दिए गए हैं, वे स्वीकृत कर दिए गए हैं :—

अनुसूची

क्रम सं.	लाइसेंस संख्या	स्वीकृत करने की तिथि, वर्ष/माह	लाइसेंसधारी का नाम व पता	भारतीय मानक का शीर्षक	भा. मा. संख्या	भाग	अनु. वर्ष	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.	3669883	04-10-2010	मैसर्स देवीदयाल (सेल्स) लिमिटेड, 50ए, जी आई डी सी कलोल, इंडस्ट्रियल एस्टेट, कलोल डैरोल रोड, कलोल, पंचमहल-389330	पैस्टसाइड कार्बोडाजीम (एम बी सी) डब्ल्यू पी	8446	-	-	1991
2.	3668780	05-10-2010	मैसर्स पी एस एल लिमिटेड, सर्वे नंबर 124, खादत, मोहड़ी रोड की तरफ, तामांसा, डिरिक्ट, गांधीनगर-382855	स्पायरल वैलडिड पाईप्स	5504	-	-	1997
3.	3669176	06-10-2010	मैसर्स विपुल कापर प्रा. लिमिटेड, 294/1, फेस 1, जी आई डी सी, नरोडा, अहमदाबाद-382330	पी बी सी इंस्लैटिड केबल्स	694	-	-	1990
4.	3669782	06-10-2010	मैसर्स बायर क्राप्साईस लिमिटेड, प्लाट नंबर 66/1 से 75/2, जी आई डी सी एस्टेट, हिमतनगर, साबरकांठा-383001	डैल्टा मैथरिन एफ	14411	-	-	1996
5.	3671567	06-10-2010	मैसर्स शैल इंडिया मार्केट प्रा. लि., प्लाट नंबर 745, जी आई डी सी, मंजूसर, ता-सावली, वडोदरा-391775	बिटूमैन इमलसन फार रोड (कैटिआनिक टाईप)	8887	-	-	2004
6.	3668578	06-10-2010	मैसर्स जान डेरी इंडिया प्रा. लि., ब्लाक नंबर 593/बी, टैंक इंडस्ट्रियल प्रापर्टी, गाँव वाडा, ता-पादरा, वडोदरा, जंबूसर रोड, वडोदरा-391440	एमिटिंग पाईप्स सिस्टम	13488	-	-	1992
7.	3669984	07-10-2010	मैसर्स एन के प्रोटीनस लिमिटेड, प्लाट नंबर 880, गाँव थोल, ताल्लुका कड़ी, मेहसाना-382721	सक्वेयर टिन 15 केजी/ लिटफार धी, बनस्पति, एडिबल आयल एंड बेकरी शॉटरिंग	10325	-	-	2000
8.	3671062	12-10-2010	मैसर्स रूषभ इंडस्ट्रीज, 17/18 सुटैक्स इंडस्ट्रियल एस्टेट, जगनाथ एस्टेट के सामने, राजियाल, अहमदाबाद-380023	इलैक्ट्रिक मोनोसैट पम्प फार क्लीयर, कोल्ड वाटर फार एग्रीकलचरल एंड वाटर सप्लाई परपस	9079	-	-	2002
9.	3670060	13-10-2010	मैसर्स आर के जैलस (विसनगर) प्रा. लिमिटेड, 4/6/38-39, माया बाजार, थिंगे गेट टावर के पास, विसनगर, मेहसाना	स्वर्ण तथा स्वर्ण धातुओं के आभूषणों शिल्पकारी शुद्धता एवं मुहरांकन	1417	-	-	1999

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
10.	3670161	13-10-2010	मैसर्स रूपकला ज्वैलर्स, 201/4, डिस्ट्रिक्ट शॉपिंग सेंटर, सैक्टर 21, गांधीनगर-382021	स्वर्ण तथा स्वर्ण धातुओं के आभूषणों शिल्पकारी शुद्धता एवं मुहरांकन	1417	-	-	1999
11.	3670262	13-10-2010	मैसर्स ज्योति गोल्ड पैलेस, 17/ए/193, कृष्णनगर, ए एम टी एस बस स्टैंड के पास, सैजपुर (नरोडा), अहमदाबाद-382346	स्वर्ण तथा स्वर्ण धातुओं के आभूषणों शिल्पकारी शुद्धता एवं मुहरांकन	1417	-	-	1999
12.	3670363	13-10-2010	मैसर्स सोनिका ज्वैलर्स, एस नंबर 634, एम जी रोड, दाहोद-389151	स्वर्ण तथा स्वर्ण धातुओं के आभूषणों शिल्पकारी शुद्धता एवं मुहरांकन	1417	-	-	1999
13.	3670464	13-10-2010	मैसर्स शक्ति ज्वैलर्स, प्लाट नंबर 1, उदय नगर, विभाग 2, कटटरगाम रोड, सूरत-395004	स्वर्ण तथा स्वर्ण धातुओं के आभूषणों शिल्पकारी शुद्धता एवं मुहरांकन	1417	-	-	1999
14.	3670565	13-10-2010	मैसर्स श्री ओम ज्वैलर्स, 46/कर्माया दोगी सोसाइटी नंबर 1, जी एच 13 मेन रोड, पायूस पवाइट के पास, पांडेसरा, के पास, चिक्कूवाडी, सूरत-382410	स्वर्ण तथा स्वर्ण धातुओं के आभूषणों शिल्पकारी शुद्धता एवं मुहरांकन	1417	-	-	1999
15.	3670666	13-10-2010	मैसर्स न्यू राजकुमार ज्वैलर्स, 4, होटल मासको बिल्डिंग, मणीनगर, अहमदाबाद-380008	स्वर्ण तथा स्वर्ण धातुओं के आभूषणों शिल्पकारी शुद्धता एवं मुहरांकन	1417	-	-	1999
16.	3670767	13-10-2010	मैसर्स सत्यानारायण केवलरम जाडिया एंड संस. 103, 104, सत्या काम्पलैक्स, अश्वमेध चार रस्ता, आई ओ सी पेट्रोल पम्प, 132 एफ टी रिंग रोड, सैटेलाईट, अहमदाबाद-380015	स्वर्ण तथा स्वर्ण धातुओं के आभूषणों शिल्पकारी शुद्धता एवं मुहरांकन	1417	-	-	1999
17.	3671668	13-10-2010	मैसर्स मैट्रो एंटरप्राइस, 47/1, परीछाया होटल के पीछे, दिनेश बेकरी के पास, प्लास्टिक फैक्ट्री, सरखेज रोड, अहमदाबाद-380055	पैकेजबंद पेयजल	14543	-	-	2004
18.	3671870	13-10-2010	मैसर्स श्री साई बिवरेज, प्लाट नंबर 6/ए, सायोना सिलवर एस्टेट, पार्ट 2, सिलवर ओक क्लब के पीछे, गोता, अहमदाबाद	पैकेजबंद पेयजल	14543	-	-	2004
19.	3672064	13-10-2010	मैसर्स ओरा केबल प्रण लिमिटेड, 222, न्यू इंडस्ट्रियल एस्टेट, रोड नंबर 6ई, उद्योग नगर, उधना, सूरत-394210	पी वी सी इंसूलेटिंड (हैवी ड्यूटी) इलैक्ट्रिक केबल	1554	1	-	1988

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
20.	3671466	14-10-2010	मैसर्स जान डेरी इंडिया प्रा. लिमिटेड, ईरीगेशन इक्यूपर्मैट-ब्लाक नंबर 593/बी, टैक इंडस्ट्रियल एमीटर प्रापर्टी, गांव वाहु, ता पादरा, वडोदरा, जंबूसर रोड-391440		13487	-	-	1992
21.	36711971	15-10-2010	मैसर्स गुरुकृष्ण इंडस्ट्रीज, ब्लाक नंबर 404/बी, पासुंज रोड, गांव कुबाडथाल, अहमदाबाद-382430	बुडन फलश डोर शटर (सोलेड कोर टाईप)	2202	1	-	1999
22.	3672165	18-10-2010	मैसर्स इनोवेटिव टायर तथा ट्रूब्स, 1201, 02,03 जी आई डी सी, हलोल, पंचमहल-389350	आटोमोटिव व्हीकल्स न्यूमोटिक टायर फार पैसंजर कार व्हीकल्स डायगोनल एंड रेडियल प्लाई	15633	-	-	2005
23.	3672266	19-10-2010	मैसर्स एरोकैम पार्सिंग प्रा. लि., प्लाट नंबर 258, रोड नंबर 1/बी, फेस 1, काठवाडा, जी आई डी सी अहमदाबाद	ईरीगेशन इक्यूपर्मैट स्मोलंकर	14151	2	-	1999
24.	3672569	19-10-2010	मैसर्स जैलको इलैक्ट्रॉनिक्स प्रा. लि., III ब्लाक नंबर 1, सर्वे नंबर 50/3, एट तथा पी ओ सगदलपुर, गांधीनगर, देहगाम-382515	पी वी सी इंसूलेटिड केबल	694	-	-	1990
25.	3672670	19-10-2010	मैसर्स एस आर ज्वैलरी डिजाइन्स, 105, पंचरत्ना अपार्टमैंट, न्यूनिसिपल कमीशनर बंगला के सामने, अथवा लाईन्स, सूरत	स्वर्ण तथा स्वर्ण धातुओं आभूषणों शिल्पकारी शुद्धता एवं मुहरांकन	1417	-	-	1999
26.	3672771	19-10-2010	मैसर्स मेवार ज्वैलर्स, बी 1-2 सरदार आरकडे, सरदार बाग, ता बारडोली, सूरत-394602	स्वर्ण तथा स्वर्ण धातुओं आभूषणों शिल्पकारी शुद्धता एवं मुहरांकन	1417	-	-	1999
27.	3672872	19-10-2010	मैसर्स जय भगवती ज्वैलर्स, प्लाट नंबर 40, शॉप नंबर 4, बजरंग नगर सोसाइटी, खोडीयार नगर रोड, वराढा, सूरत-395006	स्वर्ण तथा स्वर्ण धातुओं आभूषणों शिल्पकारी शुद्धता एवं मुहरांकन	1417	-	-	1999
28.	3674472	19-10-2010	मैसर्स ओरा केबल प्रा. लिमिटेड, 222, न्यू इंडस्ट्रियल एस्टेट रोड, नंबर 6-ई, उद्योगनगर उथना, सूरत-394210	पी वी सी इंसूलेटिड केबल	694	-	-	1990
29.	3673167	20-10-2010	मैसर्स जैट फाइबर पम्पस एवं इक्यूपर्मैट प्रा. लिमिटेड, (यूनिट 2), ब्लाक नंबर 658, एट भुदरपुरा, गांव माहजी, ता खेडा, एट-387120	हाई डैनसिटी पालथिलीन पाइप फार पोटेबल सपलाईस	4984	-	-	1995

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
30.	3673571	20-10-2010	मैसर्स इनोवेटिव टायर तथा ट्रूब्स, 1201/02,03 जी आई डी सी, हलोल, पंचमहल	आटोमोटिव वीहिकल्स- न्यूमैटिक टायर फार कमर्शल वीहिकल्स- डायगोनल एंड रेडियल प्लाई	15636	-	-	2005
31.	3673672	20-10-2010	मैसर्स रिशाम जैलर्स, शॉप नंबर 5, कैम्पस कानर, गुंजन सिनेमा के पास, जी आई डी सी, वारी, बलसाद- 396195	स्वर्ण तथा स्वर्ण धातुओं आभूषणों शिल्पकारी शुद्धता एवं मुहरांकन	1417	-	-	1999
32.	3673773	21-10-2010	मैसर्स वायरा टाइल्स प्रा. लिमिटेड, ब्लाक नंबर 61/1, गांव ताढ़कुवा, ता वायरा, बलसाद-394650	प्रीकास्ट कांक्रीट ब्लाक्स फार पेरिंग	15658	-	-	2006
33.	3673470	21-10-2010	मैसर्स एसट्राल पालिटैक्निक लि., ब्लाक नंबर 1253, गांव सांतेज़, शाह एलॉये, ता कलोल, अहमदाबाद	ब्लोरिनेटिंड पीवीसी पाईप फार पोटेबल हाट एंड कोल्ड वाटर डिसिट्र्यूशन सप्लाईस	15778	-	-	2007
34.	3674573	21-10-2010	मैसर्स फिलिप्स इलैक्ट्रॉनिक्स इंडिया लिमिटेड, भिलाड लघु औद्योगिक सहकारी मंडल लि., प्लाट नंबर 5, सारिगामा रोड, टिटलवालला होस्पिटल के पास, भिलाड, ता अंबरगाम, बलसाद- 396105	डायग्नोस्टिक मैडिकल एक्स-रे इक्यूप्रैंट	7620	-	-	1986
35.	3674371	21-10-2010	मैसर्स मारुति एग्रो इंजिनियरिंग इंडस्ट्रीज, 1/बी, राजेन्द्रा इंडस्ट्रियल एस्टेट, खोरालू रोड, विसनगर, मेहसाना-384315	पावर थ्रेशर	9020	-	-	2002
36.	3674977	22-10-2010	मैसर्स प्रिशा फूड तथा डेरी प्रोडक्ट्स प्रा. लिमिटेड, ब्लाक नंबर 795, टारैट फार्मा के सामने, अहमदाबाद मेहसाना हाइवे, गांव इनडार्ड, ता कडी, मेहसाना	स्कोमड मिल्क पाउडर	13334	1	-	1998
37.	3674169	22-10-2010	मैसर्स सिनटैक्स इंडस्ट्रीज लि.; (प्लास्टिक डिविजन), सैवन गारनाला के पास, कलोल एन जी गांधीनगर	हाट प्रेस मोलडिंड थ्रोसैर्टिंग ग्लास फाइबर रेनफोसर्ड पोलिएस्टर रेसिन जी आर पी सैक्षण वाटर स्टोरेज टैंक	14399	1 एवं 2	-	1996
38.	3674270	22-10-2010	मैसर्स विराट सिमेंट, 165, दरवार स्ट्रीट, मोटा बोरासारा, मंगराल, सूरत-394110	53 ग्रेड आडिनरी पोर्टलैंड सिमेंट	12269	-	-	1987

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
39.	3675070	25-10-2010	मैसर्स कैमेट वैटस तथा फलोस प्रा. लि., प्लाट नंबर 129/सी/2, जीआईडी सी एस्टेट, भारुच, अंकलेश्वर-380002	पैस्टिसाइड कसाबैंडजिम (एम बी सी) डब्ल्यू पी	8446	-	-	1991
40.	3675171	25-10-2010	मैसर्स कैमेट वैटस तथा फलोस प्रा. लि., प्लाट नंबर 129/सी/2, जीआईडी सी एस्टेट, भारुच, अंकलेश्वर-380002	पैस्टिसाइड डैल्टापैथरिन डब्ल्यू पी	13457	-	-	1992
41.	3675272	25-10-2010	मैसर्स यश ज्वैलर्स, एम 5, अमिधारा शॉपिंग सेंटर, रंगीला पार्क, गोड डोड रोड, नानपुरा, सूरत-395001	स्वर्ण तथा स्वर्ण धातुओं आभूषणों शिल्पकारी शुद्धता एवं मुहरांकन	1417	-	-	1999
42.	3675474	25-10-2010	मैसर्स नारायण ज्वैलर्स, 2-शांतिनिकेतन अपार्टमेंट, सेंट्रल बैंक के पास, नवसारी-396445	स्वर्ण तथा स्वर्ण धातुओं आभूषणों शिल्पकारी शुद्धता एवं मुहरांकन	1417	-	-	1999
43.	3674876	25-10-2010	मैसर्स सत्यम प्लाईवुड इंडस्ट्रीज, उंझा सिद्धपुर हाइवे, प्रीत ऐस्टोरेंट, एस नंबर 181, मेहसाना ब्राह्मणवाड-384215	बुडन फलश डोर शटर (सोलेड कोर टाईप)	2202	1	-	1999
44.	3677478	28-10-2010	मैसर्स शराफस इंजिनियरिंग लि., (यूनिट 1), 111, जी आई डी सी मकरपुरा, वडोदरा-390010	मोटर्स फार सबर्मसिबल पम्पसैट	9283	-	-	1995
45.	3679381	29-10-2010	मैसर्स एस ए फार्माकैम प्रा. लि., ब्लाक नंबर 483-बी1 और बी2, 473, ई सी पी कैनल रोड, गांव मुजपुर, ता पादरा, वडोदरा-391440	डायकैलशियम फासफेट एनिमल फीड ग्रेड	5470	-	-	2002

[फा. सं. सोएमडी/13:11]

टी. बी. नारायणन, वैज्ञानिक एफ तथा प्रमुख

New Delhi, the 28th March, 2012

S.O. 1236.—In pursuance of sub-regulation (5) of the Regulation 4 of the Bureau of Indian Standards (Certification) Regulations 1988, of the Bureau of Indian Standards, hereby notifies the grant of licences particulars of which are given in the following schedule :—

SCHEDULE

Sl. No.	Licences No.	Grant Date	Name and Address of the Party	Title of the Standard	IS No.	Part	Sec.	Year
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.	3669883	04-10-2010	M/s. Devidayal(sales)Ltd., 50A, GIDC Kalol Industrial Estate, Kalol-Derol Road Kalol, Panchamahal-389330	Pesticide - (mbc) Wp Carbendazim	8446	-	-	1991

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
2.	3668780	05-10-2010	M/s. PSL Limited, Survey No. 124, Khadat, Towards Mahudi Road, Taluka-Mansa, Dist- Gandhinagar, Mahudi-382855	Spiral Welded Pipes	5504	-	1997	
3.	3669176	06-10-2010	M/s. Vipul Copper Pvt. Ltd. 294/1 Phase 1,G.I.D.C. Naroda Ahmedabad-382330	PVC Insulated Cable	694	-	-	1990
4.	3669782	06.10.2010	M/s. Bayer Cropscience Ltd. Plot No 66/1 to 75/2 GIDC Estate Himatnagar, Sabarkantha-383001	Deltamethrin f-	14411	-	-	1996
5.	3671567	06-10-2010	M/s. Shell India Markets Pvt. Ltd. Plot No. 745,G.I.D.C. Manjusar, Tal Savli Dist.Vadodara-391775	Bitumen Emulsion For Roads (Cationic Type)	8887	-	-	2004
6.	3668578	06-10-2010	M/s. John Deere India Pvt Ltd. Block No. 593/B, Tank Industrial Property Village Vadu, Tal Padra Vadodara Jambusar Road Vadodara-391440	Emitting Pipes System	13488	-	-	1992
7.	3669984	07-10-2010	M/s. N K Proteins Ltd Plot No. 880, Village Thol Taluka Kadi, Mahesana, Thol-382721	Square Tins - 15 kg/litre for Ghee, Vanaspatti, Edible Oils and Bakery Shortenings	10325	-	-	2000
8.	3671062	12-10-2010	M/s. Rushabh Industries 17/18 Sutex Ind. Estate, Opp Jagnath Estate,Rakhiyal, Ahmedabad -380023	Electric Monoset Pumps for Clear, Cold Water for Agricultural And Water Supply Purposes -	9079	-	-	2002
9.	3670060	13-10-2010	M/s. R K Jewels (Visnagar) Pvt. Ltd. 4/6/38-39 Maya Bazar, Nr.Three Gate Tower, Visnagar, Mahesana	Gold and Gold Alloys,Jewellery/ Artefacts-Fineness and Marking	1417	-	-	1999
10.	3670161	13-10-2010	M/s. Roopkala Jewellers, 201/4 District Shopping Centre, Sector 21,Gandhinagar-382021	Gold and Gold Alloys,Jewellery/ Artefacts - Fineness and Marking	1417	-	-	1999
11.	3670262	13-10-2010	M/s. Jyoti Gold Palace, 17/A/193,Krishna Nagar, Near A.M.T.S. Bus Stand, Saijpur,(Naroda) Ahmedabad-382346	Gold and Gold Alloys,Jewellery/ Artefacts - Fineness and Marking	1417	-	-	1999
12.	3670363	13-10-2010	M/s. Sonika Jewellers S. No. 634, M.G Road, Dahod-389151	Gold and Gold Alloys, Jewellery/ Artefacts-Fineness and Marking	1417	-	-	1999

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
13.	3670464	13.10.2010	M/s. Shakti Jewellers, Plot No. 1, Uday Nagar Vibhag-2, Katargam Road, Surat-395004	Gold and Gold Alloys, Jewellery/ Artefacts - Fineness and Marking	1417	-	-	1999
14.	3670565	13.10.2010	Shree Om Jewellers, 46/Karmaya Yogi Society No. 1, Gh-13 Main Road, Near Piyus Point, Near Pandesara, Chikuwadi, Surat-382410	Gold and Gold Alloys, Jewellery/ Artefacts - Fineness and Marking	1417	-	-	1999
15.	3670666	13.10.2010	M/s. New Rajkumar Jewellers, 4, Hotel Moscow Building, Maninagar, Ahmedabad-380008	Gold and Gold Alloys, Jewellery/ Artefacts - Fineness and Marking	1417	-	-	1999
16.	3670767	13.10.2010	SatyanaRayan Kevalram Jadia & Sons 103, 104, Satya Complex, Ashwamegh Char Rasta, Opp IOC Petrol Pump, 132 Ft. Ring Road, Satelite, Ahmedabad-380015	Gold and Gold Alloys, Jewellery/ Artefacts-Fineness and marking	1417	-	-	1999
17.	3671668	13.10.2010	M/s. Metro Enterprise 47/1.B/H Parichaya Hotel, Near Dinesh Bakery, Plastic Factory, Sarkhej Road, Ahmadabad-380055	Packaged Drinking Water	14543	-	-	2004
18.	3671870	13.10.2010	M/s. Shree Sai Beverages Plot No 6/A, Sayona Silver Estate, Part 2, Behind Silver Okk Club, Gota Ahmedabad	Packaged Drinking Water	14543	-	-	2004
19.	3672064	13.10.2010	M/s. Ora Cables Pvt.Ltd. 222, New Ind.-Estate Road, No. 6-E Udyognagar Udhana, Surat-394210	Pvc Insulated (Heavy Duty) Electric Cables	1554	1	-	1988
20.	3671466	14.10.2010	M/s. John Deere India Pvt. Ltd. Block No. 593/B, Tank Industrial Property, Village Vadu, Tal Padra, Vadodara Jambusar Road-391440	Irrigation Equip- ment- emitters	13487	-	-	1992
21.	3671971	15.10.2010	M/s. Gurukrupa Industries Block No. 404/B Pasunj Road, Vill Kubadthal, Ahmadabad 382430	Wooden Flush Door Shutters (Solid Core Type)	2202	1	-	1999
22.	3672165	18.10.2010	M/s. Innovative Tyres and Tubes, I201, 02, 03 G.I.D.C. Halol, Panchmahals-389350	Automotive Vehicles - Pneumatic Tyres For Passenger Car Vehicles - Diagonal and Radial Ply -	15633	-	-	2005
23.	3672266	19-10-2010	M/s. Aerochem Piping Pvt. Ltd., Plot No. 258, Road No. 1/B, Phase-I, Kathwada, GIDC, Ahmadabad	Irrigation Equipment - Sprinkler Pipes	14151	2	-	1999
24.	3672569	19.10.2010	M/s. Gelco Electronics P. Ltd.- , III Block No 1, Survey No. 50/3 At & PO Sagdalpur, Gandhinagar Dehgam-382515	PVC Insulated Cables	694	-	-	1990

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
25.	3672670	19.10.2010	M/s. S.R.Jewellery Designs 105, Panchratna Appartment, Opp Municipal Commissioner Bungalow, Athwa Lines, Surat-39500	Gold and Gold Alloys, Jewellery/ Artefacts-Fineness and Marking				
26.	3672771	19.10.2010	M/s. Mewar Jewellers B 1-2 Sardar Arcade, Sardar Bag, Bardoli, Ta Bardoli Dist Surat-394602	Gold and Gold Alloys, Jewellery/ Artefacts-Fineness and Marking				
27.	3672872	19.10.2010	M/s. Jay Bhagwati Jewellers Plot No. 40, Shop No. 4, Bajrang Nagar Society, Khodiyar Nagar Road, Varachha, Surat-395006	Gold and Gold, Alloys, Jewellery/ Artefacts-Fineness and Marking				
28.	3674472	19.10.2010	M/s. Ora Cables Pvt.Ltd. 222, New Ind-Estate Road, No. 6-E Udyognagar Udhana, Surat-394210	PVC Insulated Cables	694	-	-	1990
29.	3673167	20.10.2010	M/s. Jet Fibre Pumps and Equipment Pvt Ltd (Unit-2), Block No. 658, At Bhudarpura, Mahiji Ta Kheda, At Village Mahij-387120	High Density Polyethylene Pipes For Potable Water Supplies	4984	-	-	1995
30.	3673571	20.10.2010	M/s. Innovative Tyres & Tubes 1201, 02, 03 G.I.D.C. Halol, Panchmahals	Automotive Vehicles- Pneumatic Tyres For Commercial Vehicles - Diagonal and Radial Ply	15636	-	-	2005
31.	3673672	20.10.2010	M/s. Rishabh Jewellers Shop No. 5, Camps Corner, Near Gunjan Cinema G.I.D.C. Vapi. Dist Valsad-396195	Gold and Gold Alloys, Jewellery/ Artefacts - Fineness, and Marking	1417	-	-	1999
32.	3673773	21.10.2010	M/s. Vyara Tiles Pvt Ltd., Block No. 61/1, Village Tadkuva, Taluka Vyara Valsad-394650	Precast Concrete Blocks For Paving	15658	-	-	2006
33.	3673470	21.10.2010	M/s. Astral Polytechnik Ltd., Block No 1253, Village Santej, Near Shah Alloys, Taluka Kalol, Ahmadabad	Chlorinated PVC Pipes For Potable Hot And Cold Water Distribution Supplies	15778	-	-	2007
34.	3674573	21.10.2010	M/s. Philips Electronics India Limited Bhilad Laghu Audhyogic Sahakari Mandal Ltd., Plot No. 5, Sarigama Road, Near Titalwala Hospital, Bhilad	Diagnostic Medical X-Ray Equipment	7620	1	-	1986
35.	3674371	21.10.2010	M/s. Maruti Agro Engineering Industries I/B Rajendra Industrial Estate, Kheralu Road, Visnagar, Mahesana-384315	Power Threshers	9020	-	-	2002

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
36.	3674977	22.10.2010	M/s. Prisha Foods And Dairy Products Pvt.Ltd.Block No. 795, Opp Torrent Pharma Ahmedabad-Mehsana High Way Village Indrad, Taluka Kadi Mehsana	Skimmed Milk Powder	13334	I	-	1998
37.	3674169	22.10.2010	Sintex Industries Ltd. (Plastics Division)Near Seven Garnala,Kalol (N.G). Gandhinagar	Hot Press Moulded Thermo-setting Glass Fibre Reinforced Polyester Resin (Grp) Sectional Water Storage Tanks	14399	I & 2	-	1996
38.	3674270	22.10.2010	M/s. Virat Cement 165, Darbar Street, Mota Borasara, Mangrol Surat-394110	53 Grade Ordinary Portland Cement	12269	-	-	1987
39.	3675070	25.10.2010	M/s. Chemet Wets & Flows Pvt. Ltd. Plot No 129/C/2, Gidc Estate.Bharuch, Ankleshwar-380002	Pesticide - Carbendazim (Mbc) Wp	8446	-	-	1991
40.	3675171	25.10.2010	M/s Chemet Wets & Flows Pvt. Ltd., Plot No. 129/C/2, Gidc Estate.Bharuch, Ankleshwar-380002	Pesticide - Deltamethrin Wp	13457	-	-	1992
41.	3675272	25.10.2010	M/s. Yash Jewellers, M-5,Amidhara Shopping Centre, Rangila Park,Ghad Dod Road, Nanpura Surat-395001	Gold and Gold Alloys, Jewellery/ Artefacts-Fineness and Marking	1417	-	-	1999
42.	3675474	25.10.2010	M/s. Narayan Jewellers, 2-Shantiniketan Appartment, Near Central Bank, Navsari-396445	Gold and Gold Alloys, Jewellery/ Artefacts-Fineness and Marking.	1417	-	-	1999
43.	3674876	25.10.2010	M/s. Satyam Plywood Industries Unjha Siddhpur Highway, Nr.Preet Restaurant, S. N. 181 Mahesana, Brahamanwad-384215	Wooden Flush Door Shutters (Solid Core Type)	2202	I	-	1999
44.	3677478	28.10.2010	M/s. Shroffs Engineering Ltd., (Unit- 1) 111,Gidc Makarpura, Vadodara-390010	Motors For Submersible Pumpsets	9283	-	-	1995
45.	3679381	29.10.2010	S.A. Pharmachem Pvt.Ltd. Block No. 483-B1 & B2,473, ECP Canal Road Vill. Mujpur, Tal Padra Dist Vadodara-391440	Dicalcium Phosphate, Animal Feed Grade.	5470	-	-	2002

[F. No. CMD/13 :11]

T. B. NARAYANAN, Scientist-F & Head

नई दिल्ली, 28 मार्च, 2012

का.आ. 1237.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम 1988 के नियम 4 के उपनियम (5) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन लाइसेंसों के विवरण नीचे अनुसूची में दिए गए हैं, वे स्वीकृत कर दिए गए हैं :—

अनुसूची

क्रम सं.	लाइसेंस संख्या	स्वीकृत करने की तिथि, वर्ष/माह	लाइसेंसधारी का नाम व पता	भारतीय मानक का शीर्षक	भा. मा. संख्या	भा. वर्ष	अनु. संख्या	वर्ष (8)	वर्ष (9)
(1)	(2)	(3)	(4)	(5)	(6)	(7)			
1.	3677377	02-11-2010	मैसर्स हीर जैलस,	स्वर्ण तथा स्वर्ण धातुओं के आभूषणों शिल्पकारी सेवाश्रम रोड, भारुच-392001	1417	—	—	1999	
2	3677781	03-11-2010	मैसर्स जेनफलैब्स केबलस प्रा. लि., ए/2/1, साबरमती इंडस्ट्रियल सोसाइटी, गुरु कोल्ड स्टोरेज के पीछे, शीतल पैकिंग के पास, साबरमती हाइवे रोड, अहमदाबाद-380005	पी वी सी इंसुलेटिड केबल	694	—	—	1990	
3.	3678783	03-11-2010	मैसर्स ब्लू बैरी, प्लाट 133, बालाजी इंडस्ट्रियल 1, नवजीवन सर्कल के पास, उधना मगड़ाला रोड, सूरत-394210	पैकेजबंद पेयजल	14543	—	—	2004	
4.	3678884	03-11-2010	मैसर्स तापी बिवरेज, सर्वे नंबर 429, 430-1, 433, पैकी, टैनामैंट नंबर 17, बी-17-0-0011002, गुरु आशीष, कोट्यार्क नगर सोसाइटी के सामने, एट बिल सूरत-395009	पैकेजबंद पेयजल	14543	—	—	2004	
5.	3679280	03-11-2010	मैसर्स एस ए फार्माकैम प्रा. लि., ख्लाक नंबर 483-बी 1 एण्ड बी 2, 473, ई सी पी कैनाल रोड, गांव मुजपुर, ता पादरा, बडोदरा-391440	मिनरल मिक्सचर फार सप्लीमैंटिंग कैटल फोडस	1664	—	—	2002	
6.	3677983	04-11-2010	मैसर्स हिंदुस्तान कोलास लिमिटेड, प्लाट नंबर 426-430, जी आई डी सी साबली इंडस्ट्रियल एसटेट, गांव मंजूसर, बडोदरा-381770	बिट्मैन इमलसन फार रोड (कैटिओनिक टाईप)	8887	—	—	2004	
7.	3680568	20-11-2010	मैसर्स बनसकांटा डिस्ट्रिक्ट को ओपरेटिव मिल्क प्रोड्यूसर्स यूनियन लिमिटेड, पालनपुर, बनस डेरी, पी बी नंबर 20, डिस्ट्रिक्ट बनसकांटा-385001	इनर्फैट मिल्क सबस्टियूट्स	14433	1	—	199	

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
8.	3680770	20-11-2010	मैसर्स अर्चना इंजिनियरिंग वर्क्स, एल 54, जी आई डी सी एस्टेट, ओल्ड टैक वाटर के पीछे, अमहादाबाद-382415	पप्प-रिजैनरेटिव या क्लीयर, कोल्ड वाटर	8472	-	-	1998
9.	3680063	22-11-2010	मैसर्स के. के. मलटीकास्ट टैक्नोलॉजी, नंबर 603, ब्लाक नंबर 618, एट तथा पी ओ महूवेज, एन एच नंबर 8, ता. मंगरोल, सूरत	प्रीकास्ट कंक्रीट पाईप (विर एंड विदाउट रेनिफोर्समेंट)	458	-	-	2003
10.	3680366	22-11-2010	मैसर्स एकवागार्ड प्लाटिस्क एंड पोलिमर्स प्रा. लिमिटेड, ए-1/839, जी आई डी सी इंडस्ट्रियल एस्टेट, मकरपुरा, बडोदरा-390010	एमिटिंग पाईप सिस्टम	13488	-	-	1992
11.	3681873	23-11-2010	मैसर्स विश्वा एंटरप्राइज टिमबा ना मोवाडा, ताल्लुका थासरा, खेडा टिम्बा ना मयूवाडा-388235	पैकेजबंद पेयजल	14543	-	-	2004
12.	3681974	23-11-2010	मैसर्स यूनियन क्वालिटी प्लास्टिक्स लिमिटेड, 204, जी आई डी सी इंडस्ट्रियल एस्टेट, बलसाद, अंबरगांव-396171	टैक्सटाईस-लैमिनेटिड हाई डैनसिटी पालथिलीन (एच डी पी ई) फैबरिक फार कैनाल लाइनिंग	15351	-	-	2003
13.	3681570	24-11-2010	मैसर्स श्री लखबीर एंटरप्राइसिस, ब्लाक नंबर 119, प्लाट नंबर 12, मोहम्मदपुरा गांव, पोस्ट कुंडहेला स्टेट हाइवे नंबर 11, ताल्लुक दबहाई, बडोदरा-391110	पैकेजबंद पेयजल	14543	-	-	2004
14.	3680871	24-11-2010	मैसर्स गुजरात राफिया इंडस्ट्रीज लि., 455, बडसर रोड, गांव सातेज, ता. कलोल, गांधीनगर-382721	टैक्सटाईस-लैमिनेटिड हाई डैनसिटी पालथिलीन (एच डी पी ई) फैबरिक फार कैनाल लाइनिंग	15351	-	-	2003
15.	3681469	25-11-2010	मैसर्स गनैबो इंडिया लिमिटेड, प्लाट नंबर 1302-1306, जी आई डी सी इंडस्ट्रियल एस्टेट, चंपानेर रोड, पंचयमहल-389350	पोटेबल फायर एक्सटीगीशर ड्रा पाउडर टाईप (कानसटैट प्रेशर)	13849	-	-	1993
16.	3681671	25-11-2010	मैसर्स बालाजी सिमेंट इंडस्ट्रीज, प्लाट नंबर 9/आर, जी आई डी अनटालिया, बिलोमोरा, नवसारी	53 ग्रेड आडिनरी पोर्टलैंड सिमेंट	12269	-	-	1987
17.	3681772	25-11-2010	मैसर्स महावीर कैमफूड इंडस्ट्रीज, एट गांव गडखोल, ता. अंकलेश्वर, भारुच-393002	आयोडाईसड साल्ट	7224	-	-	2006

[फा. सं. सीएमडी/13 : 11]

टी. बी. नारायणन, वैज्ञानिक 'एफ' एवं प्रमुख

New Delhi, the 28th March, 2012

S.O. 1237.—In pursuance of sub-regulation (5) of the Regulation 4 of the Bureau of Indian Standards (Certification) Regulations, 1988, of the Bureau of Indian Standards, hereby notifies the grant of licences particulars of which are given in the following schedule :—

SCHEDULE

Sl. No.	Licences No.	Grant Date	Name and Address of the Party	Title of the Standard	IS No.	Part	Sec.	Year
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.	3677377	02-11-2010	M/s. Heer Jewellers, 8, Surya Shopping Centre, Sevashram Road, Bharuch-392001	Gold and Gold Alloys, Jewellery/ Artefacts—Fineness and Marking	1417	-	-	1999
2.	3677781	03-11-2010	M/s.Jainflex Cables Pvt. Ltd., A/2/1, Sabarmati Industrial Society, B/H Guru Cold Storage, Nr. Shital Packing, Sabarmati-Highway Road, Ahmedabad-380005	PVC Insulated Cables	694	-	-	1990
3.	3678783	03-11-2010	M/s. Blue Berry, Plot- 133, Balaji Ind.-1, Near Navjivan Circle, Udhna-Magdala Road, Surat-394210	Packaged Drinking Water	14543	-	-	2004
4.	3678884	03-11-2010	M/s. Tapi Beverages Survey No. 429, 430-1, 433, Paiki, Tenament No. 17, B-17-0-0011002, Guru Ashish, Opp. Kotyark Nagar Soc., At Vill, Surat-395009	Packaged Drinking Water	14543	-	-	2004
5.	3679280	03-11-2010	M/s. S.A. Pharmachem Pvt. Ltd., Block No. 483-B1 & B2, 473, ECP Canal Road, Vill. Mujpur, Tal Padra Vadodara-391440	Mineral mixtures for supplementing cattle feeds	1664	-	-	2002
6.	3677983	04-11-2010	M/s. Hindustan Coals Ltd. Plot No. 426-430, GIDC Savli Industrial Estate, Village Manjusar Vadodara-381770	Bitumen emulsion for Roads (Cationic Type)	8887	-	-	2004
7.	3680568	20-11-2010	Banaskantha Dist. Co.Op. Milk Producers Union Ltd., Palanpur, Banas Dairy, P.B. No. 20, Palanpur Distt., Banaskantha-385001	Infant Milk substitutes	14433	1	-	199
8.	3680770	20-11-2010	Archna Engineering Works, L-54, GIDC Estate, B/H Old Water Tank Odhav., Ahmedabad-382415	Pumps-regenerative or clear, cold water	8472	-	-	1998

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
9.	3680063	22-11-2010	M/s. K K B Multicast Technology S. No. 603, Block No. 618, At & PO Mahuvej, N.H. No. 8, Tal Mangrol, Surat	Precast concrete pipes (with and without reinforcement)	458	-	-	2003
10.	3680366	22-11-2010	M/s. Aquaguard Plastics & Ploymers Pvt. Ltd., A-1/839, G.I.D.C. Industrial Estate, Makarpura, Vadodara-390010	Emitting pipes system	13488	-	-	1992
11.	3681873	23-11-2010	M/s Vishwa Enterprises Timba Na Muvada Taluka Thasra Kheda, Timba Na Muvada-388235	Packaged Drinking Water	14543	-	-	2004
12.	3681974	23-11-2010	M/s. Union Quality Plastics Ltd. 204, GIDC Industrial Estate Valsad, Umbergaon-396171	Textiles-laminated high density polyethylene (hdpe) fabric for canal lining	15351	-	-	2003
13.	3681570	24-11-2010	M/s. Shree Lakhbir Enter-Block No. prises 119, Plot No. 12, Mohmmmedpura Village, Post Kundhela State Highway No. 11, Taluka Dabhoi, Vadodara Dabhoi, Gujarat-391110	Packaged Drinking Water	14543	-	-	2004
14.	3680871	24-11-2010	M/s. Gujarat Raffia Industries Limited 455, Vadsar Road, Village Santej, Talkalol Gandhinagar-382721	Textiles-laminated high density polyethylene (hdpe) fabric for canal lining	15351	-	-	2003
15.	3681469	25-11-2010	M/s. Gunnebo India Limited Plot No. 1302-1306, GIDC Industrial Estate, Champaner Road, Panchmahal-389350	Portable fire extinguisher dry powder type (constant pressure)	13849	-	-	1993
16.	3681671	25-11-2010	M/s. Balaji Cement Industries Plot No. 9/R, GIDC Antalia, Bilimora, Navsari	53 grade ordinary Portland Cement	12269	-	-	1987
17.	3681772	25-11-2010	M/s. Mahavir Chemfood Industries, at Village Gadkhol, Taluka Ankleshwar, Bharuch-393002	Iodized Salt	7224	-	-	2006

[F. No. CMD/13 : 11]

T. B. NARAYANAN, Sc-F & Head

नई दिल्ली, 28 मार्च, 2012

का.आ. 1238.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम, 1988 के विनियम 5 के उप-विनियम (6) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि निम्न विवरण वाले लाइसेंसों को उनके आगे दर्शायी गई तारीख से रद्द/स्थगित कर दिया गया है

अनुसूची

क्र. सं.	लाइसेंस संख्या सं. सीएम/एल-	लाइसेंसधारी का नाम व पता	लाइसेंस के अन्तर्गत वस्तु/प्रक्रम सम्बद्ध भारतीय मानक का शीर्षक	रद्द करने की तिथि
(1)	(2)	(3)	(4)	(5)
1.	7719286	मैसर्स पालको मैटलस लिमिटेड, खनवाडी के सामने, रामोल रोड, अहमदाबाद-382449	एल्युमिनियम कंडक्टर्स फार ओवरहैड ट्रांसमिशन परपस आईएस 398 : पार्ट 2 : 1996	18-11-2010
2.	3646063	मैसर्स हज़ीरा प्लेट लिमिटेड, 27, के एम सूरत हज़ीरा रोड, पी ओ हज़ीरा, सूरत-394270	स्टील फार जनरल स्टकचर्ल परपस आई एस 2062 : 2006	26-11-2010

[फा. सं. सीएमडी/13:13]

टी. बी. नारायणन, वैज्ञानिक एफ एवं प्रमुख

New Delhi, the 28th March, 2012

S.O. 1238.—In pursuance of sub-regulation (6) of the Regulation 5 of the Bureau of Indian Standards (Certification) Regulations, 1988, the Bureau of Indian Standards, hereby notifies that the licences particulars of which are given below have been cancelled suspended with effect from the date indicated against each :—

SCHEDULE

Sl. No.	Licences No. CM/L-	Name and Address of the Licensee	Article/Process with relevant Indian Standards covered by the licence cancelled	Date of Cancellation
(1)	(2)	(3)	(4)	(5)
1.	7719286	M/s. Palco Metals Limited, Opp. Khanwadi, Ramol Road, Distt : Ahmadabad-382449	Aluminium Conductors for Overhead Transmission Purposes IS 398 : Part 2 : 1996	18-11-2010
2.	3646063	M/s. Hazira Plate Ltd., 27, KM Surat-Hazira Road, P.O. Hazira, Distt : Surat-394270	Steel for General Structural Purposes IS 2062 : 2006	26-11-2010

[F. No. CMD/13:13]

T. B. NARAYANAN, Scientist F & Head

नई दिल्ली, 28 मार्च, 2012

का.आ. 1239.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम, 1988 के नियम 4 के उप-नियम (5) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन लाइसेंसों के विवरण नीचे अनुसूची में दिए गए हैं, वे स्वीकृत कर दिए गए हैं :—

क्रम सं.संख्या	लाइसेंस संख्या की तिथि, वर्ष/माह	लाइसेंसधारी का नाम व पता	भारतीय मानक का शीर्षक	भा. मा. संख्या	भाग	अनु.	वर्ष	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.	3683675	03-12-2010	मैसर्स एकवैश हैल्थकेयर इन कार्पोरेशन, सर्वे नंबर 138, एन एच नंबर 8ए, कल्याणगाड़, ता बावला, अहमदाबाद	पैकेजबंद पेयजल	14543	—	—	2004.

(1)	(2)	(3)	(4)	(5)	
2.	3683978	03-12-2010 मैसर्स मानसरोवर मार्केटिंग, सर्वे नंबर 395, प्लाट नंबर 1/ए, सूर्योपुर इंडस्ट्रियल सोसाइटी, पटेल नगर, ए के रोड, सूरत-395003	पैकेजबंद पेयजल	14543	- - 2004
3.	3683776	06-12-2010 मैसर्स मारुति पोलिप्लास्ट, गुजरात व्यापारी महामंडल इंडस्ट्रियल एस्टेट, ओढव, अहमदाबाद	हाई डैनसिटी पालथिलीन- पाईप फार पोटेबल वाआर स्प्लाईस	4984	- - 1995
4.	3683877	07-12-2010 मैसर्स रूबीकान कोबल इंडस्ट्रीज 89/6, केस 1, जी आई डी सी एस्टेट, वटवा, अहमदाबाद-382445	पी बी सी इंसूलेटिड कोबल	694	- - 1990
5.	3687279	07-12-2010 मैसर्स मीना बिवरेज, एल टी सी के पास, रिफरैल अस्पताल के सामने, बडोदा रोड, एट जंबूसर, भारुच-392150	पैकेजबंद पेयजल	14543	- - 2004
6.	3684172	09-12-2010 मैसर्स बिशनदयाल जवैलर्स, 13-सी, शॉप नंबर 1, 2, 3, ग्राउंड फ्लॉर, सारेला शॉपिंग सैंटर, गोड डॉड रोड, माजूरा, सूरत-395001	स्वर्ण तथा स्वर्ण धातुओं के आभूषणों शिल्पकारी शुद्धता एवं मुहरांकन	1417	- - 1999
7.	3684374	09-12-2010 मैसर्स सी अरविंदो मैन्यूफैक्चरिंग प्रा., लिमिटेड, 37ए से 37 बी चांगोदर इंडस्ट्रियल एस्टेट, ता सानंद, अहमदाबाद-388210	पैकेजबंद पेयजल	14543	- - 2004
8.	3684677	09-12-2010 मैसर्स सरस्वती बिवरेज, हीरो हॉडा शोरूम के पीछे, तावाड़िया चार रस्ता, सिंधुपुर, पाटन	पैकेजबंद पेयजल	14543	- - 2004
9.	3684576	10-12-2010 मैसर्स टैकएलायस इंडस्ट्रीज, प्लाट नंबर 192, एफ रोड, जी आई डी सी, रामन गामडी पी ओ आर, बडोदरा-391243	कवर्ड इलैक्ट्रोडस फार मैन्यूल मैटल आर्क वैलिंग ऑफ कार्बन तथा कार्बन ऐंगेनीस स्टील	814	- - 2004
10.	3685780	14-12-2010 मैसर्स जी पी प्रीट,	पैकेजबंद पेयजल	14543	- - 2004
		प्लाट नंबर 24/25, रोड नंबर 1, उधना, उद्योगनगर, सूरत-394210			
11.	3685376	15-12-2010 मैसर्स रिलायंस जैमस तथा ज्वैलस लिमिटेड, ग्राउंड फ्लॉर तथा पहली मंजिल, प्रेरणा आरबोर, समुद्रा अनैक्स के सामने, गिरशि कोल्ड ड्रिंक क्रासिंग के पास, सी जी रोड, अहमदाबाद-380009	चांदी तथा चांदी धातुओं के आभूषणों शिल्पकारी शुद्धता एवं मुहरांकन	2112	- - 2003

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
12.	3685477	15-12-2010	मैसर्स रिलायंस जैमस तथा जैवैलस लिमिटेड, ग्राउंड फ्लोर तथा पहली मंजिल, प्रेरणा आरबोर, समुद्रा अनैक्स के सामने, गिरशि कोल्ड इंडिक क्रांसिंग के पास, सी जी रोड, अहमदाबाद-380009	स्वर्ण तथा स्वर्ण धातुओं के आभूषणों शिल्पकारी शुद्धता एवं मुहरांकन	1417	—	—	1999
13.	3685578	15-12-2010	मैसर्स रिलायंस रिटेल लिमिटेड, रिलायंस जैवैलस, स्वामीनारायण मंदिर के पास, मानसी क्रास रोड, जजिस बंगला रोड, वस्त्रापुर, अहमदाबाद-380015	स्वर्ण तथा स्वर्ण धातुओं के आभूषणों शिल्पकारी शुद्धता एवं मुहरांकन	1417	—	—	1999
14.	3685679	15-12-2010	मैसर्स रिलायंस रिटेल लिमिटेड, रिलायंस जैवैलस, स्वामीनारायण मंदिर के पास, मानसी क्रास रोड, जजिस बंगला रोड, वस्त्रापुर, अहमदाबाद-380015	चांदी तथा चांदी धातुओं के आभूषणों शिल्पकारी शुद्धता एवं मुहरांकन	2112	—	—	2003
15.	3691472	20-12-2010	मैसर्स एरिसटो बायोटैक तथा लाईफ- साइंस प्रा. लिमिटेड, ई-26, जी आई डी सी मंजूसर, ता. सावरी चडोदरा	आलाकलोर इमलसीफाईएबल कंसट्रैट्स	9354	—	—	1980
16.	3687380	22-12-2010	मैसर्स कैमैट वैट्स तथा फ्लोस प्रा. लिमिटेड, प्लाट नंबर 129/सी/2, जीआईडी सी एस्टेट, अंकलेश्वर-393002	कापर आकिसक्लोराईड वाटर डिसपर्सबल पाउडर कंसट्रैट्स	1507	—	—	1977
17.	3687885	22-12-2010	मैसर्स सीट लिमिटेड, एट गैटम्बुबालाखा पी. ओ. चंद्रापुरा, ता. हलोल, चंचमहल-389350	ओटोमोटिव वहीकल- न्यूमैटिक टायर फार पैसेंजर कार वहीकल डायगोनल तथा रेडियल प्लाई	15633	—	—	2005
18.	3687077	22-12-2010	मैसर्स नंद प्लाई तथा बोर्ड प्रा. लि., 34, जाक इंडस्ट्रियल एरिया, गांव जाक, वाहेलाल रोड, पी. ओ. पारडोल, ता. देहगाम, गांधीनगर जाक-382325	बुडन फलश डोर शटर (सोलैड कोर टाईप)	2202	1	—	1999
19.	3687178	22-12-2010	मैसर्स योगेश्वर प्लाईवुड, 252/75, धामसाना रोड, रवि टिंबर के पीछे, कलोल (एन जी) गांधीनगर	बुडन फलश डोर शटर (सोलैड कोर टाईप)	2202	1	—	1999

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
20.	3687986	23-12-2010	मैसर्स डेजल बुड प्रोडक्ट्स, ब्लॉक नंबर 16/1, जाक गांव, ता देहगाम, गांधीनगर-382330	ब्लॉक बोर्ड	1659	-	-	2004
21.	3688079	23-12-2010	मैसर्स डेजल बुड प्रोडक्ट्स, ब्लॉक नंबर 16/1, जाक गांव, ता देहगाम, गांधीनगर-382330	बुडन फलश डोर शटर (सोलैड कोर टाइप)	2202	1	-	1999
22.	3688180	23-12-2010	मैसर्स योगंश्वर प्लाईबुड, 252/75, धामसाना रोड, रवि टिक्कर के पीछे, कलोत (एन जी) गांधीनगर	ब्लॉक बोर्ड	1659	-	-	2004
23.	3688483	23-12-2010	मैसर्स सनराईस प्लास्टिक इंडस्ट्रिजप्लाट पीवीसी इंसूलेटिड केबल 40, पार्ट 1, बिलायावार इंडस्ट्रिज, जी वी एम एम के सामने, ओढव, अहमदाबाद-382415	पीवीसी इंसूलेटिड केबल	694	-	-	1990
24.	3691068	23-12-2010	नैसर्स एन एस पी पम्पस, 294/2, फेस 1, जी आई डी एस्टेट, नरोड, अहमदाबाद-382330	मोटर्स फार सबमर्सिबल पम्पसैट	9283	-	-	1995
25.	3689283	28-12-2010	मैसर्स गुडलक केबल्स प्रा. लिमिटेड, 122पी, 123 पी, 131, जीआईडी एस्टेट, घेस 1, मेहसाना-384002	पीवीसी इंसूलेटिड केबल	694	-	-	1990
26.	3689384	28-12-2010	मैसर्स दी सपनपाईप तथा कंस्ट्रक्शन कम्पनी (बडोदा) प्रा. लिमिटेड, प्लाट नंबर-2, सर्वोदय सहकारी उद्योगनगर लिमिटेड, एट तथा पोस्ट दत्तगुरा, ता वाधोडिया, बडोदा -391760	बार/वायर रैपड स्ट्रील सिलंडर पाईप विद मोटरलाइनिंग तथा कोटिंग (इनकलूडिंग स्पैशल्स)	15155	-	-	2002

[फा. सं. सीएमडी/13:11]

टी. बी. नारायणन, वैज्ञानिक एक एवं प्रमुख

New Delhi, the 28th March, 2012

S.O. 1239.—In pursuance of sub-regulation (5) of the Regulation 4 of the Bureau of Indian Standards (Certification) Regulations 1988, of the Bureau of Indian Standards, hereby notifies the grant of licences particulars of which are given in the following schedule :—

SCHEDULE

Sl. No.	Licences No.	Grant Date (3)	Name and Address of the Party (4)	Title of the Standard (5)	IS No. (6)	Part (7)	Sec. (8)	Year (9)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.	3683675	03-12-2010	Aquash Healthcare in Corporation Survey No. 138, N.H. 8A, Kalyanghad, Tabavla, Ahmedabad	Packaged Drinking Water	14543	—	—	2004
2.	3683978	03-12-2010	M/s. Mansarovar Marketing Survey No. 395, Plot No. 1/A, Suryapur Industrial Society, Patel Nagar, A.K. Road, Surat-395003	Packaged Drinking Water	14543	—	—	2004
3.	3683776	06-12-2010	M/s. Maruti Ployplast, Gujarat Vepari Mahamandal Industrial Estate, Odhav, Ahmedabad	High density polyethylene pipes for potable water supplies	4984	—	—	1995
4.	3683877	07-12-2010	M/s. Rubicon Cables Industries 89/6, Phase-I, G.I.D.C. Estate, Vatva, Ahmedabad-382445	PVC Insulated Cables	694	—	—	1990
5.	3687279	07-12-2010	M/s. Meena Beverages Near LTC, Opp. Referral Hospital, Baroda Road, Jambusar, At. Jambusar, Bharuch-392150	Packaged Drinking Water	14543	—	—	2004
6.	3684172	09-12-2010	M/s. Bishandayal Jewellers, 13-C, Shop No. 1,2,3, Ground Floor, Sarela Shopping Centre, Ghod Dod Road, Majura, Surat-395001	Gold and Gold Alioys, Jewellery/ Artifacts—Fineness and Marking	1417	—	—	1999
7.	3684374	09-12-2010	M/s. Sri Aurobindo Manufacturing Pvt. Ltd., 37A to 37B Changodar Industrial Estate, Changodar Taluka Sanand, Ahmedabad-388210	Packaged Drinking Water	14543	—	—	2004
8.	3684677	09-12-2010	M/s. Saraswati Beverages, B/H Hero Honda Showroom, Tavadiya Charrasta, Siddhpur, Patan	Packaged Drinking Water	14543	—	—	2004
9.	3684576	10-12-2010	M/s. Technalloys Industries Plot No. 192, F Road, GIDC, Raman Gamdipor, Vadodara-391243	Covered electrodes for manual metal arc welding of carbon and carbon manganese steel	814	—	—	2004

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
10.	3685780	14-12-2010	M/s. JP Prints Plot No. 24/25, Road, No. 1, Udhna Udyognagar, Surat-394210	Packaged Drinking Water	14543	—	—	2004
11.	3685376	15-12-2010	Reliance Gems and Jewels Limited, Ground Floor & 1st Floor, Prerna Arbour, Opp. Samudra Annex Near Girish Cold Drink Crossing, C.G. Road, Ahmadabad-380009	Silver and Silver alloys, jewellery/ artefacts-fineness and marking	2112	—	—	2003
12.	3685477	15-12-2010	Reliance Gems and Jewels Limited, Ground Floor & 1st Floor, Prerna Arbour, Opp. Samudra Annex Near Girish Cold Drink Crossing, C.G. Road, Ahmadabad-380009	Gold and Gold alloys, Jewellery/ Artefacts-Fineness and Marking	1417	—	—	1999
13.	3685578	15-12-2010	Reliance Gems and Jewels Limited, Reliance Jewels Near Swaminarayan Temple Mansi Cross Road, Judges Bungalow Road, Vastrapur Ahmadabad-380015	Gold and Gold alloys, Jewellery/ Artefacts-Fineness and Marking	1417	—	—	1999
14.	3685679	24-11-2010	Reliance Gems and Jewels Limited, Reliance Jewels Near Swaminarayan Temple Mansi Cross Road, Judges Bungalow Road, Vastrapur Ahmadabad-380015	Silver and Silver alloys, jewellery/ Artefacts-Fineness and Marking	2112	—	—	2003
15.	3691472	20-12-2010	M/s. Aristo Biotech & Lifescience Pvt. Ltd., E-26, G.I.D.C. Manjusar Tal Savli, Vadodara	Alachlor emulsifiable concentrates	9354	—	—	1980
16.	3687380	22-12-2010	M/s. Chemet Wets & Flows Pvt. Ltd., Plot No. I29/C/2, GIDC Estate, Ankleshwar-393002	Copper oxychloride water dispersible powder concentrates	1507	—	—	1977
17.	3687885	22-12-2010	M/s. Ceat Limited, At : Getmuvala, PO : Chandrapura, Tal : Halol, Panchmahal-389350	Automotive vehicles- pneumatic tyres for passenger car vehicles-diagonal and radial ply-	15633	—	—	2005

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
18.	3687077	22-12-2010	M/s. Nand Ply & Board Pvt. Ltd., 34, Zak Industrial Area, Village Zak, Vahelal Road, PO. Pardhol, Taldahegam, Gandhinagar Zak-382325	Wooden flush door shutters (solid core type)	2202	1	—	1999
19.	3687178	22-12-2010	M/s. Yogeshwar Plywood 252/75, Dhamasana Road, B/H Ravi Timber, Kalol (NG), Gandhinagar	Wooden flush door shutters (solid core type)	2202	1	—	1999
20.	3687986	23-12-2010	M/s. Dazzle Wood Products, Block Boards Block No. 16/1, Zak, Village, TA. Dehgam, Gandhinagar-382330	Block Boards	1659	—	—	1999
21.	3688079	23-12-2010	M/s. Dazzle Wood Products, Block Boards Block No. 16/1, Zak, Village, TA. Dehgam, Gandhinagar-382330	Wooden flush door shutters (solid core type)	2202	1	—	1999
22.	3688180	23-12-2010	M/s. Yogeshwar Plywood 252/75, Dhamasana Road, B/H Ravi Timber, Kalol (NG), Gandhinagar	Block Boards	1659	—	—	2004
23.	3688483	23-12-2010	M/s. Sunrise Plastic Industries, Plot 40, Part-1, Bilashwarind, Estate, Opp. G.V.M.M. Odhav Ahmedabad-382415	PVC insulated cables	694	—	—	1990
24.	3691068	23-12-2010	M/s. NSP Pumps, 294/2, Phase 1, GIDC Estate Naroda, Ahmedabad-382330	Motors for submersible pumpsets	9283	—	—	1995
25.	3689283	28-12-2010	Goodluck Cables Pvt. Ltd., 122P, 123P, 131, G.I.D.C. Estate, Phase-I Mehsana-384002	PVC insulated cables	694	—	—	1990
26.	3689384	28-12-2010	The Spunpipe and Construction Co. (Baroda) Pvt. Ltd., Plot, No. 2, Sarvodaya Sahkari Udyognagar Ltd., at and Post-Dattpura TA Waghodia, Vadodara-391760	Bar/wire wrapped steel cylinder pipes with mortarlining and coating (including specials)	15155	—	—	2002

[F. No. CMD/13 : 11]

T. B. NARAYANAN, Sc-'F' & Head

नई दिल्ली, 28 मार्च, 2012

का.आ. 1240.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम, 1988 के विनियम 5 के उप-विनियम (6) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि निम्न विवरण वाले लाइसेंसों को उनके आगे दर्शायी गई तारीख से रद्द/स्थगित कर दिया गया है :-

अनुसूची

क्र. सं.	लाइसेंस संख्या सीएम/एल	लाइसेंसधारी का नाम व पता	लाइसेंस के अन्तर्गत वस्तु/प्रक्रम सम्बद्ध भारतीय मानक का शीर्षक	रद्द करने की तिथि
(1)	(2)	(3)	(4)	(5)
1.	3654668	मैसर्स रिलायंस रिटेल लिमिटेड, रिलायंस ज्वैल्स, अपर ग्राउंड फ्लोर इसकान मार्ट, राजपथ क्लब, एस जी रोड, अहमदाबाद	चांदी तथा चांदी धातुओं के आभूषणों शिल्पकारी शुद्धता एवं मुहरांकन आईएस 2112 : 2003	20-12-2010
2.	3654971	मैसर्स रिलायंस रिटेल लिमिटेड, रिलायंस ज्वैल्स, अपर ग्राउंड फ्लोर इसकान मार्ट, राजपथ क्लब, एस जी रोड, अहमदाबाद	स्वर्ण तथा स्वर्ण धातुओं के आभूषणों शिल्पकारी शुद्धता एवं मुहरांकन आईएस 1417 : 1999	20-12-2010

[फा. सं. सीएमडी/13:13]

टी. बी. नारायणन, वैज्ञानिक 'एफ' तथा प्रमुख

New Delhi, the 28th March, 2012

S.O. 1240.—In pursuance of sub-regulation (6) of the Regulation 5 of the Bureau of Indian Standards (Certification) Regulations, 1988, of the Bureau of Indian Standards, hereby notifies that the licences particulars of which are given below have been cancelled with effect from the date indicated against each :—

SCHEDULE

Sl. No.	Licences No. CM/L-	Name and Address of the Licences	Article/Process with relevant Indian Standards covered by the licence cancelled	Date of Cancellation
(1)	(2)	(3)	(4)	(5)
1.	3654668	M/s. Reliance Retail Limited Reliance Jewels Upper Ground Floor Iscon Mart, Rajpath Club, S.G. Road, Ahmedabad	Silver and Silver alloys, jewellery/ artefacts-fineness and marking IS 2112 : 2003	20-12-2010
2.	3654971	M/s. Reliance Retail Limited Reliance Jewels Upper Ground Floor Iscon Mart, Rajpath Club, S.G. Road, Ahmedabad	Gold and Gold Alloys, Jewellery/ Artefacts-Fineness and Marking IS 1417 : 1999	20-12-2010

[F. No. CMD/13:13]

T. B. NARAYANAN, Scientist F & Head

नई दिल्ली, 28 मार्च, 2012

का.आ. 1241.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम, 1988 के नियम (4) के उपनियम 5 के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन लाइसेंसों के विवरण नीचे अनुसूची में दिए गए हैं, वे स्वीकृत कर दिए गए हैं :—

अनुसूची

क्रम सं.	लाइसेंस संख्या	स्वीकृत करने की तिथि, वर्ष/माह	लाइसेंसधारी का नाम व पता	भारतीय मानक का शीर्षक	भा. मा. संख्या	भाग	अनु. संख्या	वर्ष
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.	3693476	04-01-2011	मैसर्स रबरिंग टायर इंडिया प्राइवेट लिमिटेड, 9-10, जी आई डी सी, हंसापुर, विरपगाम, अहमदाबाद-382150	ओटोमोटिव व्हीकल- ट्रूब्स फार न्यूमैटिक टायर	13098	-	-	1991
2.	3692171	05-01-2011	मैसर्स मिलाप ज्वैलर्स, 102-103, सी बी देसाई चैम्बर्स, गुंजन सिनेमाकोपरली रोड, जीआईडीसी, वापी, वलसाद-396195	स्वर्ण तथा स्वर्ण धातुओं के आभूषणों शिल्पकारी शुद्धता एवं मुहरांकन	1417	-	-	1999
3.	3692575	06-01-2011	मैसर्स सराहिंद स्टील लिमिटेड, ओढव, अहमदाबाद-382415	हाई स्ट्रैथ डिफामड स्टील 1786 बार्स एंड वायर फार कांक्रीट रेनिफोर्समेंट	-	-	-	2005
4.	3692676	06-01-2011	मैसर्स भगवती ज्वैलर्स, जयराज जावेरी, 5, 6, सिलीकोन वैली, गाडंड फ्लोर, शिवरंजनी क्रास रोड, सैटेलाइट अहमदाबाद-380015	स्वर्ण तथा स्वर्ण धातुओं के आभूषणों शिल्पकारी शुद्धता एवं मुहरांकन	1417	-	-	1999
5.	3692777	06-01-2011	मैसर्स गोविंदजी ज्वैलर्स, वार्ड नंबर 19-एफ, नोनध नंबर 140/1, शॉप नंबर 3, 4 स्ट्रीट नंबर 5, विजय काम्पलैक्स, ललिता पार्क सोसाइटी, कांतारेश्वर महादेव मंदिर रोड, सूरत, कट्टरगाम-395004	स्वर्ण तथा स्वर्ण धातुओं के आभूषणों शिल्पकारी शुद्धता एवं मुहरांकन	1417	-	-	1999
6.	3692878	06-01-2011	मैसर्स श्री भगवती ज्वैलर्स, 7, महाकालेश्वर शॉपिंग सेंटर, मेमनगर, अहमदाबाद-380052	स्वर्ण तथा स्वर्ण धातुओं के आभूषणों शिल्पकारी शुद्धता एवं मुहरांकन	1417	-	-	1999
7.	3692979	07-01-2011	मैसर्स लकी प्लाई लैमिनेट्स, सर्वे नंबर 29/3, पी-१, एन एच नंबर 8, गांव टालवाडा, ताल्लुका अंबरगांव, वलसाद-396105	प्लाईवुड फार जनरल परपस	303	-	-	1989
8.	3693072	07-01-2011	मैसर्स लकी प्लाई लैमिनेट्स, सर्वे नंबर 29/3, पी-१, एन एच नंबर 8, गांव टालवाडा, ताल्लुका अंबरगांव, वलसाद-396105	वीनरड डैकोरेटिव प्लाईवुड	1328	-	-	1996

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
9.	3693678	12-01-2011	मैसर्स पायलॉट पालीप्लास्ट इंडस्ट्रीज, अनप्लास्टिसार्ड पी वी अहमदाबाद हाईवे, रामदेव रेस्टोरेंट, सी पाईप फार पोटेबल कृष्णा ट्रांसपोर्ट के सामने, वाटर सप्लाइस बनसकांटा पालनपुर-385001	4985	-	-	2000	
10.	3693981	12-01-2011	मैसर्स उन्नति पम्प एंटरप्राइज, 22 से 27 तक, निमेश एस्टेट, अमर एस्टेट के पास, फोर्ज तथा बलोयर के सामने, नरोडा रोड, अहमदाबाद	14220	-	-	1994	
11.	3695682	18-01-2011	मैसर्स इनोवेटिव टायरस तथा ट्रूब्स लिमिटेड, 1704, जी आई डी सी, हलोल, पंचमहल-389350	ओटोमोटिव वहीकल-ट्रूब्स फार न्यूमैटिक टायरस	13098	-	-	1991
12.	3695581	19-01-2011	मैसर्स सन बुड प्रोडक्ट्स ब्लॉक नंबर 126, उजेडा रोड, एट/पी ओ महियाल, ता तालोड, साबरकांटा-383215	ब्लॉक बोर्ड	1659	-	-	2004
13.	3694680	19-01-2011	मैसर्स हीना ज्वैलर्स, 1, एबी, इशावाश्याम अपार्टमेंट, मदन वाड, वलसाद-396001	स्वर्ण तथा स्वर्ण धातुओं के आभूषणों शिल्पकारी शुद्धता एवं मुहरांकन	1417	-	-	1999
14.	3694781	19-01-2011	मैसर्स मुकेश ज्वैलर्स, शॉप नंबर 18, इबराहिम मार्केट बाजार रोड, वलसाद, वापी-396191	स्वर्ण तथा स्वर्ण धातुओं के आभूषणों शिल्पकारी शुद्धता एवं मुहरांकन	1417	-	-	1999
15.	3695177	19-01-2011	मैसर्स आशिमा बिवरेजस, एट तथा पी ओ तारापुर, एट गांव तारापुर, डिस्ट्रिक्ट आनंद, ता. तारापुर-388180	चैकेजबंद पेयजल	14543	-	-	2004
16.	3695480	20-01-2011	मैसर्स आर बी जैड ज्वैलर्स प्रा. लि., 101, पहली मंजिल, रिमैंबरेंट चिल्डग, एसोसियेट्ड पैट्रोल पम्प के सामने, सी जी रोड, अहमदाबाद	स्वर्ण तथा स्वर्ण धातुओं के आभूषणों शिल्पकारी शुद्धता एवं मुहरांकन	1417	-	-	1999
17.	3695278	21-01-2011	मैसर्स रिलायंस जैम्स ज्वैलर्स लि., रिलायंस ज्वैलर्स, अपर ग्राउंड फ्लोर, इस्कोन मार्ट, राजपथ क्लब के पास, एस जी रोड, अहमदाबाद	स्वर्ण तथा स्वर्ण धातुओं के आभूषणों शिल्पकारी शुद्धता एवं मुहरांकन	1417	-	-	1999
18.	3695379	21-01-2011	मैसर्स रिलायंस जैम्स ज्वैलर्स लि., आशरा आरकडे, गांधीधाम के सामने, रेलवे स्टेशन, एलीसब्रीज, अहमदाबाद-380006	चांदी तथा चांदी धातुओं के आभूषणों शिल्पकारी शुद्धता एवं मुहरांकन	2112	-	-	2003

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
19.	3696078	25-01-2011	मैसर्स डायमंड हाउस, शॉप नंबर जी 21, रंगीला पार्क, गोड डोड रोड, सूरत-395007	स्वर्ण तथा स्वर्ण धातुओं के आभूषणों शिल्पकारी शुद्धता एवं मुहरांकन	1417	-	-	1999
20.	3695985	25-01-2011	मैसर्स श्री रामवुड इंडस्ट्रीज, ब्लॉक नंबर 126, ऊजेडिया रोड, माहीयाल टालोड, साबस्कांटा, टालोड	बुडन फलश डोर शर्ट्स सालिड कोर टाइप	2002	1	-	1999
21.	3696987	28-01-2011	मैसर्स श्री भगवती ज्वैलर्स, शॉप नंबर 532/2, एट तथा पी ओ गोला, ता पालनपुर, बनसकांटा, गोला-385410	स्वर्ण तथा स्वर्ण धातुओं के आभूषणों शिल्पकारी शुद्धता एवं मुहरांकन	1417	-	-	1999
22.	3700548	31-01-2011	मैसर्स शंकु बायो साईंस प्रा. लि., सर्वे नंबर 747, इनडाड, रत्नामणी के पास, होटल पुरोहित के पीछे, मेहसाना अहमदाबाद रोड, ता कडी मेहसाना-382715	डायकैलेशियम फासफेट एनिमल फाई ग्रेड	5470	-	-	2002

[फा. सं. सीएमडी 13: 11]

टी. बी. नारायणन, वैज्ञानिक 'एफ' एवं प्रमुख

New Delhi, the 28th March, 2012

S.O. 1241.—In pursuance of sub-regulation (5) of the Regulation 4 of the Bureau of Indian Standards (Certification) Regulations, 1988, of the Bureau of Indian Standards, hereby notifies the grant of licences particulars of which are given in the following schedule :—

SCHEDULE

Sl. No.	Licences No.	Grant Date	Name and Address of the Party	Title of the Standard	IS No.	Part	Sec.	Year
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.	3693476	04-01-2011	M/s. Rubberking Tyres India Private Limited 9-10, GIDC Hansalpur Virangam, Ahmedabad-382150	Automotive vehicles-tubes for Pneumatic tyres-	13098	-	-	1991
2.	3692171	05-01-2011	M/s. Milap Jewellers, 102-103, C B Desai Chambers, Near Gunjan Cinemakoparli Road, GIDC Vapi, Valsad-396195	Gold and Gold Alloys, Jewellery/ Artefacts—Fineness and Marking	1417	-	-	1999
3.	3692575	06-01-2011	M/s. Sirhind Steel Limited, Odhav, Ahmedabd-382415	High Strength deformed Steel Bars and Wires for concrete re- inforcement	1786	-	-	2005

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
4.	3692676	06-01-2011	M/s. Bhagwati Jewellers Jayraj Zaveri 5,6, Silicon Valley, Ground Floor, Shivrangani Cross Roads, Satellite Ahmedabad-380015	Gold and Gold Alloys, Jewellery/ Artefacts—Fineness and Marking	1417	-	-	1999
5.	3692777	06-01-2011	M/s. Govindji Jewellers Ward No. 19-F, Nondh No. 140/1, Shop No. 3,4 Street No. 5, Vijay Complex, Lalita Park Soc., Kantareshwar Mahadev Mandir Road, Surat, Katargam-395004	Gold and Gold Alloys, Jewellery/ Artefacts—Fineness and Marking	1417	-	-	1999
6.	3692878	06-01-2011	M/s. Shree Bhagwati Jewellers, 7, Mahakaleshwar Shopping Centre Ahmedabad, Memnagar-380052	Gold and Gold Alloys, Jewellery/ Artefacts—Fineness and Marking	1417	-	-	1999
7.	3692979	07-01-2011	M/s. Lucky Ply Laminates Survey No. 29/3, P-1/P-1, N.H. No. 8, Village Talwada, Taluka Umbergaon, Valsad-396105	Plywood for general purposes	303	-	-	1989
8.	3693072	07-01-2011	M/s. Lucky Ply Laminates Survey No. 29/3, P-1/P-1, N.H. No. 8, Village Talwada, Taluka Umbergaon, Valsad-396105	Veneered decorative plywood-	1328	-	-	1996
9.	3693678	12-01-2011	M/s. Pilot Polyplast Industries Ahmedabad Highway, Nr. Ramdev Restorant, Opp. Krishna Transport, Banas Kantha Palanpur-385001	Unplasticized PVC Pipes for Potable Water Supplies	4985	-	-	2000
10.	3693981	12-01-2011	M/s. Unnati Pumps Enterprise 22 to 27, Nimesh Estate, Near Amar Estate, Opp. Forge and Blower, Naroda Road, Ahmedabad	Openwell Submersible Pumpsets	14220	-	-	1994
11.	3695682	18-01-2011	M/s. Innovative Tyres & Tubes Limited 1704, GIDC, Halol, Panchmahal-389350	Automotive vehicles-tubes for pneumatic tyres	13098	-	-	1991
12.	3695581	19-01-2011	Sun Wood Products Block No. 126, Ujedia Road, At/PO Mahiyal, Taluka Talod Sabarkantha-383215	Block boards	1659	-	-	2004

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
13.	3694680	19-01-2011	M/s. Hina Jewellers, 1, A-B, Ishavashyam Apartments Madanwad, Valsad-Vapi-396001	Gold and Gold Alloys, Jewellery/ Artefacts—Fineness and Marking	1417	-	-	1999
14.	3694781	19-01-2011	M/s. Mukesh Jewellers, Shop No. 18, Ibrahim Market, Bazar Road, Valsad Vapi-396191	Gold and Gold Alloys, Jewellery/ Artefacts—Fineness and Marking	1417	-	-	1999
15.	3695177	19-01-2011	M/s. Aashima Beverages At & PO Tarapur, At Village Tarapur, Dist. Anand, Taluka Tarapur-388180	Packaged Drinking Water	14543	-	-	2004
16.	3695480	20-01-2011	RBZ Jewellers Pvt. Ltd., 101, First Floor, "Rembrandt" Building Opp. Associated Petrol Pump C G Road, Ahmedabad-380009	Gold and Gold Alloys, Jewellery/ Artefacts—Fineness and Marking	1417	-	-	1999
17.	3695278	21-01-2011	Relianace Gems, Jewels Ltd., Reliance Jewels, Upper Ground Floor Iscon Mart, Near Rajpath Club SG Road, Ahmedabad	Gold and Gold Alloys, Jewellery/ Artefacts—Fineness and Marking	1417	-	-	1999
18.	3695379	21-01-2011	Relianace Gems, Jewels Ltd., Ashra Arcade, Opp. Gandhigram Railway Station, Ellisbridge Ahmedabad-380006	Silver and Silver Alloys, Jewellery/ Artefacts—Fineness and Marking	212	-	-	2003
19.	3696078	25-01-2011	M/s. Diamond House Shop No. G-21, Rangila Park, Ghod-Dod Road, Surat-395007	Gold and Gold Alloys, Jewellery/ Artefacts—Fineness and Marking	1417	-	-	1999
20.	3695985	25-01-2011	M/s. Shree Ramwood Industries, Block No. 126, Ujedia Road, Mahiyal Talod, Sabarkantha Talod	Wooden flush door shutters (solid core type) : part 1 plywood face panels	2002	1	-	1999
21.	3696987	28-01-2011	M/s. Shree Bhagwati Jewellers, Shop No. 532/2, at & PO Gola Tal : Palanpur, Banaskantha, Gola-385410	Gold and Gold Alloys, Jewellery/ Artefacts—Fineness and Marking	1417	-	-	1999
22.	3700548	31-01-2011	M/s. Shanku Bio-Science Pvt. Ltd., Survey No. 747, Indrad, Near Ratnamani, Behind Hotel Purohit, Mehsana, Ahmedabad Road, Tal : Kadi, Mahesana-382715	Dicalcium Phosphate, 5470 Animal Feed Grade	5470	-	-	2002

नई दिल्ली, 28 मार्च, 2012

का.आ. 1242.—भारतीय मानक व्यूरो (प्रमाणन) विनियम, 1988 के नियम (4) के उपनियम 5 के अनुसरण में भारतीय मानक व्यूरो एतद्वारा अधिसूचित करता है कि जिन लाइसेंसों के विवरण नीचे अनुसूची में दिए गए हैं, वे स्वीकृत कर दिए गए हैं :—

अनुसूची

क्रम सं.	लाइसेंस संख्या	स्वीकृत करने की तिथि, वर्ष/माह	लाइसेंसधारी का नाम व पता	भारतीय मानक का शीर्षक	भा. मा. संख्या	भाग संख्या	अनु. वर्ष	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.	3698183	02-02-2011	मैसर्स जी के बिवरेज, अंतीसार गारेड रोड, जीवन शिल्प कैम्पस के सामने, रिलायंस टावर के पास, कापड़वंज, खेडा, कापड़वंज-387620	पैकेजबंद पेयजल	14543	—	—	2004
2.	3698385	04-02-2011	मैसर्स मोना पैकेज्ड ड्रिंकिंग, पहली फ्लौर, मोना प्लाजा, शॉप नंबर 5, 6, 7 & 8, दहेज बाय पास रोड, जंबूसर चौकडी, भारूच-392001	पैकेजबंद पेयजल	14543	—	—	2004
3.	3698789	04-02-2011	मैसर्स गणपति वुड प्लाई इंडस्ट्रीज, प्लाट नंबर 7, सर्वे नंबर 276, गांव धर्मपुरा, ता तथा डिस्ट्रिक्ट खेडा-387560	प्लाईवुड फार जनरल परपस	303	—	—	1989
4.	3698890	04-02-2011	मैसर्स गायत्री इंसुलेशन, डी/7/3/ए, डायमंड पार्क, गुजरात एगो के सामने, नरोडा, अहमदाबाद-382330	पी वी सी इंसुलेटिड केबल	694	—	—	1990
5.	3699084	07-02-2011	मैसर्स विमल फलैक्सोल लिमिटेड, मोटप क्रास रोड, मेहसाना मोडेरा रोड, एट मोटप, ता वेचारजी, मेहसाना-384225	पी वी सी इंसुलेटिड केबल	694	—	—	1990
6.	3699791	09-02-2011	मैसर्स एसट्राक्स सिमेंट प्रा. लिमिटेड, प्लाट नंबर 8 व 9, ब्लॉक नं. 406, बैमबारा पाटिया, एन एच नंबर 8, ता मंगरोल, सूरत, पीपोदा-394110	पोर्टलैंड स्लैग सिमेंट	455	—	—	1989
7.	3701146	14-02-2011	मैसर्स आरनाथ बिवरेज, 57, ऑबिका इंडस्ट्रियल एस्टेट, सूरोली, सूरत-395010	पैकेजबंद पेयजल	14543	—	—	2004
8.	3702451	18-02-2011	मैसर्स एसआर स्टील लिमिटेड, 27 के एम, सूरत हजीरा रोड, पो ओ हजीरा, डिस्ट्रिक्ट सूरत-394270	कोल्ड रोल्ड नान आरियैटिडइलैक्ट्रिकल स्टील शीट एंड स्ट्राइप सैमी प्रोसैसड टाईप	15391	—	—	2003

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
9.	3702956	21-02-2011	मैसर्स नोबल इलैक्ट्रोडस प्रा. लिमिटेड, ब्लाक नंबर 140, पो ओ सांतेज, ता कलोल, गांधी नगर-382721	कवर्ड इलैक्ट्रोड फार मैन्युफैटुर आर्क वैलिंग आफ कार्बन एंड कार्बन मैगेनिस स्टोल	814	-	-	2004
10.	3704051	21-02-2011	मैसर्स टैक्नो इंडस्ट्रीज लिमिटेड, प्लाट नंबर 5002, इंडो जर्मन टूल रूम के पास, फेस 4, जी आई डी, पटवा, अहमदाबाद-382445	ओपनवैल सबर्मसिबल पम्पसैट	14220	-	-	1994
11.	3704556	22-02-2011	मैसर्स शराफ इंजिनियरिंग लिमिटेड, यूनिट 1, 111, जी आई डी सी मकरपुरा, वडोदरा-390010	सबर्मसिबल पम्पसैट	8034	-	-	2002
12.	3703554	22-02-2011	मैसर्स कृष्ण ज्वैलर्स, 21, 22, शिवाजी एस्टेट, एस बी आई बैंक के सामने, बनसकांटा, धानेरा	स्वर्ण तथा स्वर्ण धातुओं के आभूषणों शिल्पकारी- शुद्धता एवं मुहरांकन	1417	-	-	1999
13.	3704152	23-02-2011	मैसर्स जय मोशन इंजिनियरिंग प्रा. लिमिटेड, सी-99, जी आई डी सी एस्टेट, अंबिकानगर रोड, लाबेला होटल के पास ओढवा, अहमदाबाद-382415	सबर्मसिबल पम्पसैट	8034	-	-	2002
14.	3704657	25-02-2011	मैसर्स कमल इंडस्ट्रीज, प्लाट नंबर 1608, सी/1/बी, सी-99, जी आई डी सी एस्टेट, फेस II, जी आई डी सी, छतराल (एन जी), गांधीनगर-382729	पी बी सी इंस्लॉटिड (एच डी) केबल	1554	1	-	1988

[सं. सीएमडी/13:11]

टी. बी. नारायणन, वैज्ञानिक एफ एवं प्रमुख

New Delhi, the 28th March, 2012

S.O. 1242.—In pursuance of sub-regulation (5) of the Regulation 4 of the Bureau of Indian Standards (Certification) Regulations 1988, of the Bureau of Indian Standards, hereby notifies the grant of licences particulars of which are given in the following schedule :—

SCHEDULE

Sl. No.	Licences No.	Grant Date	Name and Address of the Party	Title of the Standard	IS No.	Part	Sec.	Year
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.	3698183	02-02-2011	M/s. G.K. Beverages Antisar Garod Road, Opp. Jivan Shilp Campus, Near Reliance Tower, Kapadwanj, Kheda, Kapadwanj-387620	Packaged Drinking Water	14543	-	-	2004

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
2.	3698385	04-02-2011	M/s. Mona Packaged Drinking Water, 1st Floor, Mona Plaza, Shop No. 5, 6, 7 & 8, Dahej by-pass Road, Jambusar Chowkdi, Bharuch-392001	Packaged Drinking Water	14543	-	-	2004
3.	3698789	04-02-2011	M/s. Ganpati Wood Ply Industries, Plot No. 7, Survey No. 276, Village Dharmpura, TA & Dist. Kheda-387560	Plywood for general purposes	303	-	-	1989
4.	3698890	04-02-2011	M/s. Gayatri Insulation, D/7/3/A, Diamond Park, Opp. Gujarat Agro Naroda, Ahmedabad-382330	PVC Insulated Cables	694	-	-	1990
5.	3699084	07-02-2011	M/s. Vimal Flexsol Limited, Motap Cross Road, Mehsana-modhera Road, At Motap TA, Becharaji, Mahesana-384225	PVC Insulated Cables	694	-	-	1990
6.	3699791	09-02-2011	M/s. Astrox Cement Private Limited, Plot No. 8 & 9, Block No. 406, Bambora Patia, N. H. No. 8, Taluka Mangrol, Surat, Pipodara-394110	Portland slag cement	455	-	-	1989
7.	3701146	14-02-2011	M/s. Aarnath Beverages, 57, Ambika Industrial Estate, Suroli, Surat-395010	Packaged Drinking Water	14543	-	-	2004
8.	3702451	18-02-2012	M/s. Essar Steel Ltd., 27 KM, Surat-Hazira Road, P.O. Hazira, Distt. Surat-394270	Cold rolled non-oriented electrical steel sheet and strip-semi-processed type	15391	-	-	2003
9.	3702956	21-02-2011	M/s. Noble Electrodes Private Limited, Block 140 PO, Santej, Taluka Kalol, Dist. Gandhinagar-382721	Covered electrodes for manual metal arc welding or carbon and carbon manganese steel	814	-	-	2004
10.	3704051	21-02-2011	M/s. Techno Industries Limited, Plot No. 5002, Nr. Indo German Tool Room, Phase 4, GIDC Vatva, Ahmedabad-382445	Openwell Submersible Pumpsets	14220	-	-	1994

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
11.	3704556	22-02-2011	M/s. Shroffs Engineering Limited (Unit-1), 111, GIDC Makarpura, Vadodara-390010	Submersible Pumpsets	8034	-	-	2002
12.	3703554	22-02-2011	M/s. Krishna Jewellers, 21, 22, Shivaji Estate, Opp. SBI Bank, Banas Kantha, Dhanera	Gold and gold alloys, Jewellery/ Artefacts—fineness and marking	1417	-	-	1999
13.	3704152	23-02-2011	M/s. Jai Motion Engineering Pvt. Ltd., C-99, GIDC Estate, Ambicanagar Road, Near Labela Hotel, Odhav, Ahmedabad-382415	Submersible Pumpsets	8034	-	-	2002
14.	3704657	25-02-2011	M/s. Kamal Industries, Plot No. 1608, C/1/B, Phase II, GIDC, Chhatral (N.G), Gandhinagar-382729	PVC Insulated (heavy duty) electric cables	1554	1	-	1988

[F. No. CMD/13 : 11]

T. B. NARAYANAN, Sc.-F & Head

नई दिल्ली, 28 मार्च, 2012

का.आ. 1243.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम, 1988 के नियम (4) के उप-नियम 5 के अनुसरण में भारतीय मानक ब्यूरो एवंद्वारा अधिसूचित करता है कि जिन लाइसेंसों के विवरण नीचे अनुसूची में दिए गए हैं, वे स्वीकृत कर दिए गए हैं :—

अनुसूची

क्रम सं.	लाइसेंस संख्या	स्वीकृत करने की तिथि, वर्ष/माह	लाइसेंसधारी का नाम व पता	भारतीय मानक का शीर्षक	भा. मा. संख्या	भाग	अनु. संख्या	वर्ष
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.	3705255	01-03-2011	मैसर्स इंडस्ट्रीज, 323/1/ए/1, जी आई डी सी एस्टेट, लकी रैस्टोरेंट के सामने, मकरपुरा, बडोदा-390010	ईरीगेशन इक्यूपमैट मिडिया फिल्टर	14606	-	-	1998
2.	3705356	01-03-2011	मैसर्स इंडस्ट्रीज, 323/1/ए/1, जी आई डी सी एस्टेट, लकी रैस्टोरेंट के सामने, मकरपुरा, बडोदा-390010	ईरीगेशन इक्यूपमैट हाइड्रोसाक्लोन फिल्टर	14743	-	-	1999
3.	3707259	08-03-2011	मैसर्स बजाज इंजिनियरिंग, सर्वे नंबर 757, हाईवे रोड, मकटुपुरा साईड, शिव टिम्बर, के सामने, सर्वे नंबर 757, उंझा, मेहसाना-384170	पावर थ्रेशर्स-सेफटी रिक्वायरमेंट्स	9020	-	-	2002

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
4.	3707461	09-03-2011	मैसर्स सोमेश्वर इस्पात प्रा. लिमिटेड, 248, बालियासन गांव, ता मेहसाना, अहमदाबाद, मेहसाना हाईवे, मेहसाना-382732	हाई स्ट्रैथ डिफार्मर्ड स्टील बार्स तथा वायर फार कांक्रीट रेनफोर्समेंट	1786	—	—	2008
5.	3707562	09-03-2011	मैसर्स रेनबो केबल इंडस्ट्रीज, ब्लाक नंबर 733, मारुति पेन्ट्स के सामने, गांव रकनपुर, सोला सांतेज रोड, ता कलोल, डिस्ट्रिक्ट गांधीनगर-382721	पी बी सी इंसुलेटिड (हैवी ड्यूटी) इलैक्ट्रिक केबल	1554	1	—	1988
6.	3707865	10-03-2011	मैसर्स साई लीला कार्पोरेशन, 484, महादेव नगर, विभाग 1, डिडोली, सूरत	पैकेजबंद पेयजल	14543	—	—	2004
7.	3708059	14-03-2011	मैसर्स हिंदुस्तान फुड्स तथा बिवरेज कम्पनी, प्लाट नंबर 8, शायोना एस्टेट-2, लामबडा रिसर्च लैबोटरी के पास, सिल्वर ओक इंजिनियरिंग के पीछे, गोता, अहमदाबाद	पैकेजबंद पेयजल	14543	—	—	2004
8.	3711856	15-03-2011	मैसर्स गुजरात इनसैक्टिसाइड्स लिमिटेड, प्लाट नंबर 805-806, जी आई डी सी इंडस्ट्रियल एस्टेट, अंकलेश्वर-393002	क्रिबनलफास ई सी	8028	—	—	1987
9.	3708867	16-03-2011	मैसर्स मैलेडी फुड इंडस्ट्रीज, विश्वकर्मा मंदिर के पीछे, गोता रेलवे ओवर ब्रीज के पास, गोता चॉलोडिया रोड, चॉलोडिया, अहमदाबाद-382481	पैकेजबंद पेयजल	14543	—	—	2004
10.	3709566	17-03-2011	मैसर्स श्री जलेश्वर टिन इंडस्ट्रीज, हाईवे कांदोर, तालुका पालनपुर, बनसकांठा डिस्ट्रिक्ट (एन जी), कानोदर-385520	स्कवेयर टिनस 15 केजी लिटर फार धी वनस्पति, एडीबल आयल तथा बेकरी शॉटनिंगस	10325	—	—	2000
11.	3710046	18-03-2011	मैसर्स पालिगोल्ड प्रीक्योरड सिस्टम्स प्रा. लि., रानछेडा उनाली रोड, रानछेडा ता कलोल, गांधीनगर-382115	आटोमोटिव विहीकल्स ट्यूब फार न्यूमेटिक द्यायर	13098	—	—	1991
12.	3712252	19-03-2011	मैसर्स मारुति इलैक्ट्रो प्लास्ट, 19, कमल एस्टेट, बांधे कंडक्टर के पास, जी आई डी सी बटवा, अहमदाबाद-382445	केबल ट्रॉकिंग तथा डिक्टिंग सिस्टम फार इलैक्ट्रिकल इंस्टालेशन	14927	2	—	2001

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
13.	3700248	21-03-2011	मैसर्स जे के इंजिनियरिंग कम्पनी, 3/ए, महा शक्ति इंडस्ट्रियल एस्टेट, होनिया सिरमिक्स के पीछे, अहमदाबाद, नरोडा-380025	सबमर्सिवल पम्पसेट	8034	-	-	2002
14.	3710652	23-03-2011	र्ष धार्मन ज्वैलर्स, 31/स्ट, 726 पैकी, जलराम नगर, जी एच बी, पानडीसरा, सूरत-394221	स्वर्ण तथा स्वर्ण धातुओं के आभूषणों शिल्पकारी- शुद्धता एवं मुहरांकन	1417	-	-	1999
15.	3710753	23-03-2011	मैसर्स नकोडा ज्वैलर्स, 2331, कृष्णा काम्पलैक्स, हाई स्कूल रोड, पोस्ट सामरोली, ता चिखली-नवसारी-396521	स्वर्ण तथा स्वर्ण धातुओं के आभूषणों शिल्पकारी- शुद्धता एवं मुहरांकन	1417	-	-	1999
16.	3710854	23-03-2011	मैसर्स ए के ज्वैलर्स, 903/1, सरदार टाबर के सामने, गवारा रोड, खंभात, आनंद-388620	स्वर्ण तथा स्वर्ण धातुओं के आभूषणों शिल्पकारी- शुद्धता एवं मुहरांकन	1417	-	-	1999
17.	3710955	23-03-2011	मैसर्स भगवती ज्वैलर्स, बी/605, जलराम नगर, जी एच बी, पाडेसरा, उधना, सूरत-394210	स्वर्ण तथा स्वर्ण धातुओं के आभूषणों शिल्पकारी- शुद्धता एवं मुहरांकन	1417	-	-	1999
18.	3711048	23-03-2011	मैसर्स गौतम ज्वैलर्स, प्लाट नंबर ए 157, कुबेरनगर 1, कतारगाम-दत्तवाजा, सूरत-395004	स्वर्ण तथा स्वर्ण धातुओं के आभूषणों शिल्पकारी- शुद्धता एवं मुहरांकन	1417	-	-	1999
19.	3711149	23-03-2011	मैसर्स कावेरी ज्वैलर्स, एफ 1, एफ 2; सिलीकोन शॉपर्स, सत्यानगर के सामने, उधना, सूरत-394210	स्वर्ण तथा स्वर्ण धातुओं के आभूषणों शिल्पकारी- शुद्धता एवं मुहरांकन	1417	-	-	1999
20.	3711250	23-03-2011	मैसर्स अलंकार, ब्लाक नंबर 11, शॉप नंबर 3, सिली बस स्ट्याप के सामने, महाकाली मंदिर के पास, सैजपुर, अहमदाबाद	स्वर्ण तथा स्वर्ण धातुओं के आभूषणों शिल्पकारी- शुद्धता एवं मुहरांकन	1417	-	-	1999
21.	3711351	23-03-2011	मैसर्स शिवशक्ति ज्वैलर्स, 169, चूनी गाले, पोस्ट बिलीमोरा, ता गणदेवी, नससारी-396321	स्वर्ण तथा स्वर्ण धातुओं के आभूषणों शिल्पकारी- शुद्धता एवं मुहरांकन	1417	-	-	1999
22.	3713759	25-03-2011	मैसर्स गायत्री मिनरल डिवैलपमेंट कम्पनी, प्लाट नंबर 21/ए, जी आई डी सी एस्टेट, गॉव बुदासन, ता कडी, मेहसाना कडी-382715	पैकेजबंद पेयजल	14543	-	-	2004

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
23.	3711957	25-03-2011	मैसर्स त्रिप्ति एंटरप्राइस, 54-55, सी के पार्क सोसाइटी, हानी पार्क रोड, अडाजन, सूरत-395009	पैकेजबंद पेयजल	14543	-	-	2004
24.	3713456	28-03-2011	मैसर्स आदित्या जैयस तथा जैलरी, 207/बी, नेशनल प्लाजा, लाल बांगला के सामने, सी जी रोड, अहमदाबाद-380009	स्वर्ण तथा स्वर्ण धातुओं के आभूषणों शिल्पकारी- शुद्धता एवं मुहरांकन	1417	-	-	1999
25.	3713557	28-03-2011	मैसर्स फारएवर प्रीशियस जैलरी तथा डायमंड लिमिटेड, सूरत सैंट्रल, ग्राउंड फ्लोर, इरीस माल, वैलेनटाइन मल्टीप्लैक्स के सामने, सूरत ड्यूमस रोड, गैरव पथ, सूरत-395007	स्वर्ण तथा स्वर्ण धातुओं के आभूषणों शिल्पकारी- शुद्धता एवं मुहरांकन	1417	-	-	1999
26.	3713961	29-03-2011	मैसर्स भारत इंजिनियरिंग, 79, शंकर एस्टेट, रेवार्थाई एस्टेट के पास, सी टी एम, अहमदाबाद, अमराईवाडी-380026	पम्पस रिजैनरेटिव तथा क्लीयर, कॉल्ड वाटर	8472	-	-	1988
27.	3714256	30-03-2011	मैसर्स शिवम विवेरेजस, गाजा सिनेमा के पास, उखरेली रोड, सतरामपुर, पंचमहल-389260	पैकेजबंद पेयजल	14543	-	-	2004

[फा. सं. सीएमडी/13:11]

टी. बी. नारायणन, वैज्ञानिक 'एफ' एवं प्रमुख

New Delhi, the 28th March, 2012

S.O. 1243.—In pursuance of sub-regulation (5) of the Regulation 4 of the Bureau of Indian Standards (Certification) Regulations 1988, of the Bureau of Indian Standards, hereby notifies the grant of licences particulars of which are given in the following schedule :—

SCHEDULE

Sl. No.	Licences No.	Grant Date	Name and Address of the party	Title of the Standard	IS No.	Part	Sec.	Year
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.	3705255	01-03-2011	M/s. Kisan Industries 323/I/A/1, GIDC Estate, Opp. Lucky Restaurant, Makarpura, Vadodara-390010	Irrigation equipment- media filter -	14606	-	-	1998
2.	3705356	01-03-2011	M/s. Kisan Industries 323/I/A/1, GIDC Estate, Opp. Lucky Restaurant, Makarpura, Vadodara-390010	Irrigation equipment- hydrocyclone filters -	14743	-	-	1999

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
3.	3707259	08-03-2011	M/s. Bajaj Engineering Survey No. 757, Highway Road, Maktupura Side, Opp. Shiv Timber, Survey No. 757, Mahesana, Unjha-384170	Power threshers-safety requirements	9020	-	-	2002
4.	3707461	09-03-2011	M/s. Someshwar Ispat Pvt. Ltd. 248, Balyasan Village, Tal-Mehsana, Ahmedabad-Mahesana Highway, Mahesana-382732	High strength deformed steel bars and wires for concrete reinforcement	1786	-	-	2008
5.	3707562	09-03-2011	M/s. Rainbow Cable Industries Block No. 733, Opp. Maruti Paints, Village Rakanpur, Sola-Santej Road, Taluka Kalol Dist. Gandhinagar Rakanpur-382721	PVC insulated (heavy duty) electric cables	1554	1	-	1998
6.	3707865	10-03-2011	M/s. Sai Leela Corporation, 484, Mahadev Nagar, Vibhag-1, Dindoli, Surat	Packaged Drinking Water	14543	-	-	2004
7.	3708059	14-03-2011	M/s. Hindustan Foods & Beverages Co. Plot No. 8, Sayona Estate-2, Near Lambda Research Laboratory, Behind Silver OAK, Engineering College, Gota, Ahmedabad	Packaged Drinking Water	14543	-	-	2004
8.	3711856	15-03-2011	M/s. Gujarat Insecticides Limited Plot No. 805-806, GIDC Industrial Estate, Ankleshwar Bharuch, Ankleshwar-393002	Quinalphos ec	8028	-	-	1987
9.	3708867	16-03-2011	Meladi Food Industries B/H Vishwakarma Mandir, Nr. Gota Railway, Over Bridge, Gota Chandlodiyा Road, Chandlodia, Ahmedabad-382481	Packaged Drinking Water	14543	-	-	2004
10.	3709566	17-03-2011	Shree Jaleshwar Tin Industries, Highway Kandor, Taluka Palanpur, Dist. B.K. (N.G.) Banas Kantha, Kanodar-385520	Square tins-15 kg/litre for ghee, vanaspati, edible oils and bakery shortenings-	10325	-	-	2000

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
11.	3710046	18-03-2011	Polygold Precured Systems Pvt. Ltd., Rancheda Unali Road, Rancheda Tal Kalol, Gandhinagar-382115,	Automotive vehicles-tubes for pneumatic tyres -	13098	-	-	1991
12.	3712252	19-03-2011	M/s. Maruti Electro Plast 19, Kamal Estate, Near Bombay conductors GIDC. Vatva, Ahmedabad-382445	Cable trunking and ducting systems for electrical installations	14927	2	-	2001
13.	3710248	21-03-2011	M/s. J.K. Engineering Co. 3/A, Maha Shakti Indl. Estate, Behind Soniya Ceramic Naroda, Ahmedabad-380025	Submersible Pumpsets	8034	-	-	2002
14.	3710652	23-03-2011	M/s. Bhavana Jewellers 31C, 726 Paiki, Jalaram Nagar, G.H.B. Pandesara, Surat-394221	Gold and gold alloys, Jewellery/ artefacts—fineness and marking	1417	-	-	1999
15.	3710753	23-03-2011	M/s. Nakoda Jewellers 2331, Krishna Complex, High School Road, Post-Samroli Tachikhli, Navsari-396521	Gold and gold alloys, Jewellery/ artefacts—fineness and marking	1417	-	-	1999
16.	3710854	23-03-2011	M/s. A. K. Choksi 903/1, Opp. Sardar, Tower Gavara Road, Khambhat, Anand-388620	Gold and gold alloys, Jewellery/ artefacts—fineness and marking	1417	-	-	1999
17.	3710955	23-03-2011	M/s. Bhagwati Jewellers B/605, Jalaram Nagar, G.H.B. Padesara, Udhana, Surat-394210	Gold and gold alloys, Jewellery/ artefacts—fineness and marking	1417	-	-	1999
18.	3711048	23-03-2011	M/s. Gautam Jewellers Plot No. A 157, Kubernagar-I, Katargam Darwaja, Surat-395004	Gold and gold alloys, Jewellery/ artefacts—fineness and marking	1417	-	-	1999
19.	3711149	23-03-2011	M/s. Kaveri Jewellers F-1, F-2 Silicon Shoppers, Opp. Satyanagar Society, Udhna, Surat-394210	Gold and gold alloys, Jewellery/ artefacts—fineness and marking	1417	-	-	1999
20.	3711250	23-03-2011	M/s. Alankar Block No. 11, Shop No. 3, Opp. City Bus Stop, Near Mahakali Mandir, Saipur, Ahmedabad-382346	Gold and gold alloys, Jewellery/ artefacts—fineness and marking	1417	-	-	1999

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
21.	3711351	23-03-2011	M/s. Shivshakti Jewellers 169, Juni Galy, Post Bilimora, Ta Gandevi,, Dist. Navsari-396321	Gold and gold alloys, Jewellery/ artefacts—fineness and marking	1417	-	-	1999
22.	3713759	25-03-2011	M/s. Gayatri Mineral Development Co. Plot No. 21/A, GIDC Estate, Village : Budasan, Tal : Kadi, Mahesana-382715	Packaged Drinking Water	14543	-	-	2004
23.	3711957	25-03-2011	M/s. Trupti Enterprises 54-55, C K Park Society, Hani Park Road Adajan, Surat-395009	Packaged Drinking Water	14543	-	-	2004
24.	3713456	28-03-2011	M/s. Aaditya Gems and Jewellery 207/B, National Plaza, Opp. Lal Bungalow, C.G Road, Ahmedabad-380009	Gold and gold alloys, Jewellery/ artefacts—fineness and marking	1417	-	-	1999
25.	3713557	28-03-2011	M/s. Forever Precious Jewellery & Diamonds Ltd. Surat Central, Ground Floor, IRIS Mall, Opp. Valentine, Multiplex, Suratdumas Road, Gourav Path, Surat-395007	Gold and gold alloys, Jewellery/ artefacts—fineness and marking	1417	-	-	1999
26.	3713961	29-03-2011	M/s. Bharat Engineering 79, Shankar Estate, Near Revabhai Estate, C T M, Ahmedabad, Amrawadi-380026	Pump-regenerative or clear, cold water	8472	-	-	1988
27.	3714256	30-03-2011	M/s. Shivam Beverages Near Gaja Cinema, Ukhareli Road, Satrampur, Punchamahal-389260	Packaged Drinking Water	14543	-	-	2004

[No. CMD/13 : 11]

T. B. NARAYANAN, Sc.-F & Head

नई दिल्ली, 28 मार्च, 2012

का.आ.1244.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम, 1988 के विनियम 5 के उप-विनियम (6) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि निम्न विवरण वाले लाइसेंसों को उनके आगे दर्शायी गई तारीख से रद्द/स्थगित कर दिया गया है :-

अनुसूची

क्र. सं.	लाइसेंस संख्या सीएम/एल	लाइसेंसधारी का नाम व पता	लाइसेंस के अन्तर्गत वस्तु/प्रक्रम सम्बद्ध भारतीय मानक का शोषक	रद्द करने की तिथि (5)
(1)	(2)	(3)	(4)	(5)
1.	7847905	मैसर्स देवी हैल्थ केयर, 78/79, गुरु कृष्ण इंडस्ट्रियल एस्टेट, सफारी काप्पलैक्स के पीछे, बैस्टन, सूरत	पैकेजबंद पेयजल आईएस 14543 : 2004	23-3-2011

[फा. सं. सीएमडी/13:13]
टी. बी. नारायणन, वैज्ञानिक एफ एवं प्रमुख

New Delhi, the 28th March, 2012

S.O. 1244.—In pursuance of sub-regulation (6) of the regulation 5 of the Bureau of Indian Standards (Certification) Regulations, 1988, of the Bureau of Indian Standards, hereby notifies that the licences particulars of which are given below have been cancelled with effect from the date indicated against each :

SCHEDULE

Sl. No.	Licence No. CM/L-	Name and Address of the Licensee	Article/Process with relevant Indian Standards covered by the licence cancelled	Date of Cancellation
(1)	(2)	(3)	(4)	(5)
1.	7847905	M/s. Devi Health Care 78/79, Guru Krupa Industrial Estate Behind Safari Complex, Bhestan Surat, 78-79, Guru Krupa Industrial Behind Safari Complex Bhestan Surat, Distt. : Surat	Packaged drinking water IS 14543 : 2004	23-03-2011

[F. No. CMD/13 : 13]

T. B. NARAYANAN, Sc.-F & Head

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 23 मार्च, 2012

का.आ. 1245.—केन्द्रीय सरकार पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 2 के खण्ड (क) के अनुसरण में नीचे दी गई अनुसूची के स्तम्भ (1) में उल्लिखित व्यक्ति को उक्त अनुसूची के स्तम्भ (2) में की तत्स्थानी प्रविष्टि में उल्लिखित क्षेत्र की बाबत, उक्त अधिनियम के अधीन सक्षम प्राधिकारी के कृत्यों का पालन करने के लिए प्राधिकृत करती है अर्थात् :—

अनुसूची

प्राधिकारी का नाम और पता	क्षेत्र
श्री अरुण कुमार तलवार (आर.ए.एस.) 16, कृष्णा विहार, नारायण निवास के पास गोपालपुरा बायपाय रोड़, जयपुर-302015	राजस्थान राज्य

2. यह अधिसूचना जारी होने की तारीख से लागू होगी।

[फा. सं. एल-14014/39/2011-जी.पी.]

ए. गोस्वामी, अवर सचिव

MINISTRY OF PETROLEUM AND NATURAL GAS

New Delhi, the 23rd March, 2012

S. O. 1245.—In pursuance of clause (a) of section 2 of the Petroleum and Minerals Pipelines (Acquisition of Right of user in Land) Act, 1962 (50 of 1962), the Central Government hereby Authorizes the person mentioned in column (1) of the Schedule given below to perform the functions of the Competent Authority under the said Act, in respect of the areas mentioned in column (2) of the said Schedule namely :—

SCHEDULE

Name and Address of the Authority	Area of Jurisdiction
Shri Arun Kumar Talwar, R. A. S. (Retd.) 16, Krishna Vihar, Near Narayan Niwas, Gopalpura, Bypass, Road, Jaipur-302015	For the State of Rajasthan

2. This notification will be effective from the date of its issue.

[F. No. L-14014/39/2011-GP]
A. GOSWAMI, Under Secy.

नई दिल्ली, 23 मार्च, 2012

का.आ. 1246.—केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 2 के खण्ड (क) के अनुसरण में नीचे दी गई अनुसूची के स्तम्भ (1) में उल्लिखित व्यक्ति को उक्त अनुसूची के स्तम्भ (2) में की तत्स्थानी प्रविष्टि में उल्लिखित क्षेत्र की बाबत, उक्त अधिनियम के अधीन सक्षम प्राधिकारी के कृत्यों का पालन करने के लिए प्राधिकृत करती है अर्थात् :—

अनुसूची

प्राधिकारी का नाम और पता	क्षेत्र
श्री अरविन्द खरे, संयुक्त संचालक उद्योग (वाणिज्य, उद्योग और रोजगार विभाग) घर नं. 468, सेक्टर-ए शाहपुरा, भोपाल-462 016, मध्य प्रदेश राज्य	मध्य प्रदेश राज्य

2. यह अधिसूचना जारी होने की तारीख से लागू होगी।

[फा. सं. एल-14014/39/2011-जी.पी.]
ए. गोस्वामी, अवर सचिव

New Delhi, the 23rd March, 2012

S. O. 1246.—In pursuance of clause (a) of section 2 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby Authorizes the person mentioned in column (1) of the Schedule given below to perform the functions of the Competent Authority under the said Act, in respect of the areas mentioned in column (2) of the said Schedule namely :—

SCHEDULE

Name and Address of the Authority	Area of Jurisdiction
Shri Arvind Khare, Joint Director Industries, (Commerce, Industry & Employment Dept.) Government of Madhya Pradesh, House No. 468, Sector-A, Shahpura Bhopal-462016, Madhya Pradesh	For the State of Madhya Pradesh

2. This notification will be effective from the date of its issue.

[F. No. L-14014/39/2011-GP]
A. GOSWAMI, Under Secy.

भ्रम और रोजगार वंशालय

नई दिल्ली, 12 मार्च, 2012

का.आ. 1247.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दूरदर्शन जिला अभियन्ता, बी.एस.एन.एल., दमोह (एम.पी.) प्रबंध तंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचाट (संदर्भ संख्या-सी.जी.आईटी./एल.सी./आर/65/05) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-03-2012 को प्राप्त हुआ था।

[फा. सं. एल-40012/03/2005 आईआर(डीयू)]

रमेश सिंह, डेस्क अधिकारी

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 12th March, 2012

S.O. 1247.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT/LC/R/65/05) of the Central Government Industrial Tribunal cum Labour-Court Jabalpur as shown in the Annexure, in the Industrial dispute between the employers in relation to the management of Doorsanchar Zila Abhiyanta BSNL, Damoh (MP) and their workman, which was received by the Central Government on 12-03-2012.

[F. No. L-40012/3/2005-IR(DU)]

RAMESH SINGH, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM LABOUR COURT,
JABALPUR**

No. CGIT/LC/R/65/05

Presiding Officer : Shri Mohd. Shakir Hasan

Shri Kailash Nath Shukla,
S/o Late Shri Vijay Singh,
Civil Ward, Near Jail,
Telephone Exchange,
Damoh (MP)

Workman

Versus

The Doorsanchar Zia Abhiyanta,
BSNL,
Damoh (MP)

Management

AWARD

Passed on this 14th day of February, 2012

1. The Government of India, Ministry of Labour *vide* its Notification No. L-40012/3/2005-IR(DU) dated 11-7-05 has referred the following dispute for adjudication by this tribunal :—

“Whether the action of the management of Telecom District Engineer, BSNL, Damoh (MP) in terminating the services of Shri Kailash Nath Shukla S/o Late Shri Vijay Shanker Shukla claimed to have been

engaged from 1991-1999 is legal and justified ? If not, to what relief the workman is entitled to ?”

2. The case of the workman, in short, is that he was working on daily wages in the department of Telecommunication from 1992 to 1999. During the said period from 1-1-1992 to 1993 he worked in Coxel Sagar (ACF.17), in the year 1994 to 1996 under Telecom District Engineer, Sagar and from 1998 to 1999 with Telecom Divisional Engineer, Divisional Office, Telecom, Damoh. It is further stated that he worked in the year 1992 for 222 days, in 1993 for 303 days, in 1994 for 334 days, in 1995 for 239 days, in 1996 for 356 days, in 1997 for 343 days, in 1998 for 358 days and in the year 1999 he worked 305 days and was terminated from service in December 1999 without complying of the provision of Section 25-F of the Industrial Disputes Act, 1947 (in short the Act, 1947). It is stated that he worked more than 240 days in a year. It is submitted that the workman be regularized in service.

3. The management appeared and file Written statement in the reference case. The case of the management, interalia, is that the workman was engaged on part time basis for some times for a specific work and was discontinued on completion of the said specific work. He had worked purely on casual basis as and when needed for a specific work but had not worked 240 days or more in a calender year. It is an admitted fact that he worked as a part time mazdoor in Coaxial Sagar between 1992 to 1993, under Telecom District Engineer Sagar between 1994 to 1996 and with Telecom District Engineer Damoh between 1998 to 1999 on part time and temporary basis as and when required. It is stated that there is no violation of the provision of Section 25-F of the Act, 1947. It is submitted that the reference be answered in favour of the management.

4. On the basis of the pleadings of the parties, the following issues are framed for adjudication.

I. Whether the action of the management in terminating the services of Shri Kailash Nath Shukla is legal and justified ?

II. To what relief the workman is entitled ?

5. Issue No. I

The workman Shri Kailash Nath Shukla is examined in the case. He has stated that he was on the post of labour but the pleading shows that he was on daily wages. His name was not recommended by the Employment Exchange. He has stated that he cannot say orally as to how many days he worked in a year. The workman has not proved any document to show that how many days he worked in a year. His evidence does not show that he worked 240 days or more in a year especially during the period of 12 months preceding the date with reference.

6. The management has examined one witness, namely Shri M.C.Raj who is Telecom Divisional Engineer, Damoh. He has supported the case of the management.

He has stated that he was engaged on daily wages as and when on availability of specific work. He was not engaged 240 days in a year prior to his discontinuation. He has proved the signature on paper No. 6/7. The said document shows that he was worker of the contractor and was utilized for specific work. This witness has also proved the signature on paper No. 6/5. The said document shows that he was not engaged by Shri R.C.Verma. Thus the evidence of the witness shows that he was employee of the contractor and was used for a specific work. This shows that the provision of Section 2(00)(bb) of the Act is attracted. He appears to be not under the definition of retrenchment. This shows that the provision of Section 25-F of the Act, 1947 is not violated. This issue is decided in favour of the management and against the workman.

7. Issue No. I

On the basis of the discussion made above, I find that the workman is not entitled to any relief. Accordingly the reference is answered.

8. In the result, the award is passed without any order to costs.

9. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

MOHD. SHAKIR HASAN, Presiding Officer

नई दिल्ली, 12 मार्च, 2012

का.आ. 1248.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार चीफ जनरल मैनेजर, टेलीकमनीकेशनस, भोपाल प्रबंध तंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकारण जबलपुर के पंचाट (संदर्भ संख्या—सी.जी.आई.टी./एल.सी./आर/43/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-03-2012 को प्राप्त हुआ था।

[फा. सं. एल-40012/95/1997-आईआर(डीयू)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 12th March, 2012

S.O. 1248.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT/LC/R/43/98) of the Central Government Industrial Tribunal cum Labour Court Jabalpur as shown in the Annexure, in the Industrial dispute between the Chief General Manager, Telecommunication, Bhopal and their workman, which was received by the Central Government on 12-03-2012.

[F No. L-40012/95/1997-IR(DU)]
RAMESH SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

No. CGIT/LC/R/43/98

Presiding Officer: Shri Mohd. Shakir Hasan

Shri Kifayat Ullah,
S/o Shri Barkat Ullah, 83,
Gautam Nagar,
Near PGBT College,
Barsia Road,
Bhopal

Workman

Versus

The Chief General Manager,
Telecommunication,
M.P. Circle,
Hoshangabad Road,
Bhopal

Management

AWARD

Passed on this 15th day of February, 2012

1. The Government of India, Ministry of Labour vide its Notification No.L-40012/95/97-IR(DU) dated 17-2-99 and corrigendum dated 1-6-2011 has referred the following dispute for adjudication by this tribunal:—

“Whether the action of the management of Chief General Manager, Telecommunication in terminating the services of Shri Kifayat Ullah S/o Shri Barkat Ullah w.e.f. May 1987 is justified ? If not, to what relief the workman is entitled to ?”

2. The case of the workman, in short, is that he was engaged on muster roll as casual labour from February 1986 to May 1987. The management had time to time issued circulars directing the regularization and giving temporary status to persons so engaged. In pursuance of the said circular the workman applied for his regularization and giving temporary status which was accepted by the management and was sent to the higher authority with details of his working period but no order was passed. He was also stopped from work orally which was unjust, unfair and unreasonable. It is submitted that the workman be reinstated with full back wages.

3. The management appeared and filed Written Statement to contest the reference. The case of the management, interalia, is that the workman was engaged on muster roll on temporary basis and after completion of the work, he was not further engaged. He left the work on his own accord. He was never engaged for more than 240 days in a calendar year. Hence he is not entitled to any relief. The circulars as has been referred, are not applicable to the workman and he was not entitled to be regularized or to grant temporary status. Under the circumstances, the reference be answered in favour of the management.

4. On the pleadings of both the parties, the following issues are framed for adjudication—

- I. Whether the action of the management in terminating the services of the workman w.e.f. May 1987 is justified?
- II. To what relief, the workman is entitled?

5. Issue No. I

To prove the case, the workman has himself examined as a witness. He has stated that he was engaged in Feb 1986 and worked continuously till May 1987 as a casual labour. He has further stated that his termination from services by the management was amount to illegal retrenchment as he had worked more than 240 days in a calendar year. He has denied that he had left the job at his own accord as the same was contradicted by the management in his reply before the Assistant Labour Commissioner, Bhopal wherein the management has stated that because of paucity of work, his engagement was discontinued. He has stated that before retrenchment he was not given any showcause notice, nor any compensation was paid under Section 25-F of the Industrial Disputes Act, 1947 (in short the Act, 1947). His evidence shows that he had worked as casual labour and as such he shall be deemed to be in continuous service for a period of one year during a period of twelve calendar months prior to the date with reference as has been provided under Section 25-B of the Act, 1947. His evidence further shows that he was not show caused nor any compensation was paid before dis-engagement as such there is a violation of the provision of Section 25-F of the Act and the retrenchment appears to be illegal and unjustified.

6. On the other hand, the management has adduced oral and documentary evidence. The management witness Shri Shankar Lal Koropa was working as Divisional Engineer(Admn.) BSNL, Dhar (MP). He has stated that he came to know about the case from the office record. This shows that he had no personal knowledge of the facts of the case. He has stated that he was engaged as casual labour on Feb. 1986 for a specific work and for specific period. The management has not produced any document to show that he was engaged for specific period. He appears to be not competent to say in absence of the document because he has no personal knowledge of the facts of the case. He has further stated that the workman was willfully absent from May 1987. This aspect shows that he worked till 1987. He has been suggested that the management had given reply before ALC that the workman was disengaged due to paucity of work. He has admitted that the reply was filed by the management before the ALC(C) and the copy of the reply would be filed in Court. But the management has failed to file the said reply wherein it is admitted that due to paucity of work, the workman was disengaged. The workman has filed the photocopy of

the reply of the management filed before ALC(C), Bhopal which is paper No. 11/7. The said reply supports the contention of the workman that the management has stated that due to paucity of work, the workman was not further engaged. This shows that the workman has not left the job at his own accord rather he was disengaged on paucity of work.

7. The management has filed documentary evidence which are admitted by the workman. Exhibit M/1 to M/5 are circulars with regard to temporary status but there is no reference to decide the point of temporary status. Exhibit M/6 is statement of the work done by the workman on monthwise from Feb, 1986 to May 1987. The said statement clearly shows that the workman had worked 337 days during the period of twelve calendar months from June 1986 to May 1987 prior to the date with reference. This shows that admittedly he worked more than 240 days in twelve calendar months prior to the date with reference and he shall be deemed to be in continuous service for a period of one year preceding the date with reference under the provision of Section 25-B of the Act, 1947. This shows that he shall be deemed to be a retrenched employee. The management witness Shri Shankar Lal Koropa has admitted in his evidence that no notice was given. There is no evidence that any compensation was paid to the workman. Thus it is clear that the retrenchment without notice and without compensation is the violation of section 25-F of the Act, 1947. This issue is decided in favour of the workman and against the management.

8. Issue No. II

On the basis of the discussion made above, it is clear that the management is not justified in terminating the services of the workman w.e.f. May 1987 without complying the provision of Section 25-F of the Act, 1947. The learned counsel for the management has argued that the workman was engaged about 25 years back for 16 months only. It is urged that the Hon'ble Apex Court has held that in such cases, the monetary benefits would serve the ends of justice. The learned counsel for the management has relied a decision passed by the Hon'ble Apex Court on 14-10-2011 in Civil Appeal No. 8747 of 2011 [arising out of SLP(C) No. 7935/2007] Bharat Sanchar Nigam Ltd. vrs Mansingh wherein the Hon'ble Apex Court has held that—

"This Court in a catena of decisions has clearly laid down that although an order of retrenchment passed in violation of Section 25-F of the Industrial Disputes Act may be set aside but an award of reinstatement should not be passed. This Court has distinguished between a daily wager who does not hold a post and a permanent employee."

In view of the afore mentioned legal position and the fact that the respondents workmen were engaged as daily wagers and they had merely worked for

more than 240 days in our considered view, relief of reinstatement cannot be said to be justified and instead, monetary compensation would meet the ends of justice.

Accordingly, the impugned judgment passed by the High Court as also the award dated 27-5-2005 passed by the labour court are set aside. We direct the appellant Bharat Sanchar Nigam Ltd. to pay Rs. 2 lakhs to each of the respondents in full and final settlement of their claim, within six weeks from today. In case the payment is not made within the aforesaid mentioned stipulated time, the amount shall carry interest at the rate of 12% per annum."

The learned counsel for the management has also relied the decision reported in (2010) 6.S.C.C. 773, Senior Superintendent Telegraph (Traffic) Bhopal Vs. Santosh Kr. Seal and others.

9. In view of the judgment of the Apex Court, it is proper that instead of direction to reinstate the workman with back wages, the management is directed to pay Rs. Two Lakh to the workman within two months from the date of award to meet the ends of justice. In case the payment is not made within the specific time, the amount shall carry interest at the rate of 12% per annum. Accordingly the reference is answered.

10. In the result, the award is passed without any order to costs.

11. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

MOHD. SHAKIR HASAN, Presiding Officer

नई दिल्ली, 12 मार्च, 2012

का.आ. 1249.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक प्रबंध तंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक आधिकरण नागपुर के पंचाट (संदर्भ संख्या 68/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-03-2012 को प्राप्त हुआ था।

[फा. सं. एल-12012/85/2001 आई.आर. (बी-1)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 12th March, 2012

S.O. 1249.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 68/2001) of the Central Govt. Indus. Tribunal-cum-Labour Court, Nagpur as shown in the Annexure, in the Industrial dispute between the management of State Bank of India and their workman, received by the Central Government on 12-03-2012.

[F. No. L-12012/85/2001-IR(B-I)]

RAMESH SINGH, Desk Officer

ANNEXURE

BEFORE SHRI J.P.CHAND, PRESIDING OFFICER, CGIT-CUM-LABOUR COURT, NAGPUR

Case No.CGIT/NGP/68/2001

Date: 27-02-2012.

Party No. 1 : The Dy. General Manager, State Bank of India, Zonal Office, Shankar Nagar, Raipur (Chhattisgarh) 492001.

Versus

Party No. 2 : The Regional Secretary, State Bank of India and SBI Staff Congress (Bhopal Circle), C-6/8, SBI Staff Qtrs., Sector-8, Bhilai Nagar, Distt. Durg Chattisgarh.

AWARD

(Dated: 27th February, 2012)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of State Bank of India and their workman Shri Pramod Kumar Ramteke, for adjudication, as per letter No.L-12012/85/2001-IR (B-I) dated 3-9-2001, with the following schedule:—

"Whether the action of the management of State Bank of India in dismissing Shri Pramod Kumar Ramteke, Ex-Assistant/Typist of Bhilai Branch vide order dated 05&08&2000 of Assistant General Manager, SBI, Bhilai (Disciplinary Authority) and upholding the same by Deputy General Manager SBI, Raipur (Appellate Authority) is justified ? If not, what relief the workman is entitled ?"

2. On receipt of the reference, the parties were not called to file their respective statement of claim and written statement and accordingly, the Union, State Bank of India and SBI Staff Congress (Bhopal Circle) filed statement of claim on behalf of the workman, Shri Pramod Kumar Ramteke, ("the workman" in short) and the management of the State Bank of India ("Party No.1" in short) filed its written statement. The case of the workman as presented in the statement of claim is that the workman was appointed as an Assistant/Typist on 30-07-1985 and was posted at SBI, Bhilai and he was served with a show cause notice dated 01-09-1999, with a direction to show cause as to why disciplinary action should not be taken against him for his alleged misconduct and thereafter, he was served with a charge sheet under clauses 521(4)(D)(J) and 521 (4)(Q), under Shastri Award read with Desai Award and the workman submitted his explanation denying all the charges and claiming himself to be innocent, but the party no. 1 without considering the satisfactory

explanation, appointed enquiry officer to enquire into the charges and in the enquiry, evidence was adduced by the management and the witnesses, were cross-examined by the workman and after completion of the enquiry, the enquiry officer submitted his report holding the workman to be guilty of the charges and the disciplinary authority accepted the report of the enquiry officer and passed the order of dismissal from services of the workman on 05-08-2000. The further case of the union is that the workman filed an appeal before the appellate authority against the order of punishment vide his letter dated 11-09-2000 but the appellate authority rejected his appeal by order dated 07-12-2000 and the order on the appeal was passed after 3 months, from the date of receipt of the appeal by the appellate authority, though such appeal should have been disposed of within 2 months, as per the Bi-partite settlement and the appellate authority passed the order without application of mind and without examining the excessiveness or otherwise of the punishment and the action of the party no. 1 in conducting the enquiry and imposing the punishment against the workman is nothing but arbitrary, mala fide and a result of unfair labour practice and victimization. The further case raised on behalf of the workman is that the initiation of the enquiry proceeding is bad and invalid, as the procedure prescribed in Shastri Award and Desai Award for initiation of such proceedings were not followed and there was lack of application of mind by the appellate authority, while confirming the order of the disciplinary authority and such order was passed during the pendency of the conciliation proceedings before the ALC (C) and material documents were not placed on record in the departmental enquiry and the documents, list of witnesses have also not been furnished to the workman along with the charge sheet and the workman was not given proper and fair opportunity to defend his case and the witnesses for the bank were under pressure of the bank management and the workman was denied the opportunity for personal hearing, which is mandatory before issue of order of dismissal and as the order of dismissal is illegal, he is entitled for reinstatement in service with full back wages and all other benefits.

3. The party no. 1 in its written statement has pleaded inter alia that the workman was appointed as Assistant/Typist on 30-07-1985 and was posted to Bhilai Branch and while he was working in Bhilai branch, charge sheet dated 13-09-1999 was served upon him for commission of various misconducts and there were four heads of charges including drawing of various cheques on his savings bank account number 01190094083, without maintaining sufficient balances, which is against the service rules and the workman by his letter dated 31-07-1999 admitted charge no. 3 and the workman was placed under suspension and on 10-10-1999, the workman submitted his reply to the charge sheet and the departmental enquiry, the workman was represented by experience and technically qualified defence representative of his choice and during the

enquiry, various documents and witnesses were produced by the bank and the defence representative cross-examined the witnesses and the enquiry was completed on 22-04-2000 and after considering the entire materials on record, the enquiry officer submitted his report dated 01-06-2000 and a copy of the report was supplied to the workman and on 27-06-2000, the workman submitted his written submission on the enquiry report and the disciplinary authority duly considered the enquiry report and after examining the entire matter independently came to the conclusion that the findings recorded by the enquiry officer are correct and that the charges against the workman have been proved and on 17-07-2000, the disciplinary authority issued show cause notice for proposed punishment and the workman replied to the show cause notice on 29-07-2000 and before passing of the final orders, the workman was given personal hearing and after considering all the facts and circumstances and evidence on record, the disciplinary authority imposed the punishment of dismissal from services by order dated 05-08-2000 (wrongly mentioned as 04-08-2000 in the written statement) and the workman was directed to appear before the appellate authority for personal hearing on 04-12-2000, but the workman did not appear on 04-12-2000 for personal hearing and the appellate authority by a reasoned order confirmed the order of the disciplinary authority on 07-12-2000 and the enquiry was held properly by following the principles of natural justice and the time limit for disposal of the appeal is directory in nature and the punishment imposed against the workman is justified and cannot be said to be shockingly disproportionate to the proved grave misconducts against the workman and the workman is not entitled for any relief.

4. As this is a case of dismissal of the workman from services, after holding a departmental enquiry, the validity of the departmental enquiry was taken as a preliminary issue for consideration and by order dated 12-12-2006, the enquiry was held to be validly conducted by following the principles of natural justice.

5. At the time of argument, it was submitted by the learned advocate for the workman, that the findings of the enquiry officer are perverse and the findings are not supported with evidence on record and the punishment imposed against the workman is shockingly disproportionate to the charges levelled against him.

6. Per contra, it was submitted by the learned advocate for the party no. 1 that grave misconducts have been proved against the workman in a properly held departmental enquiry and the departmental enquiry has already been held to be proper by this Tribunal as per order dated 12-12-2006 and the power of Tribunal is limited in interfering with the punishment imposed by the departmental authority and such interference can only be made, when the punishment is unjust, excessive, illegal or is highly disproportionate to misconduct or suggest

victimization and the Tribunal has also not authorized to examine reliability or sufficiency of evidence and punishment and as the bank has lost confidence in the workman, there is no question of continuance of the workman in service or his reinstatement in service and the punishment is not shockingly disproportionate and the same is justified.

In support of such contentions, the learned advocate for party no. 1 has placed reliance on the decisions reported in 1995 SCC 292 (Govt. of Tamilnadu Vs. A. Rajapandian), 2005 SCC (L&S) 298 (Bharat Forge Co. Ltd. Vs. Uttam), 1999 LIC 918 (SC) (AEP Council Vs. A.K. Copra), 1999 LAB I C 3833 (SC) (High Court of Judicature of Bombay Vs. V.S.S. Patil), 2006 SCC (L&S) 265 (TNCS Corporation Ltd. Vs. K. Meerabai) and many others.

7. Before delving into the merit of the matter, I think it proper to mention the settled principles regarding the power of a Tribunal in interfering with punishment awarded by the competent authority in departmental proceedings. In a number of decisions, the Hon'ble Apex Court have held that:—

“The jurisdiction of the Tribunal to interfere with the disciplinary matters or punishment cannot be equated with an appellate jurisdiction. The Tribunal cannot interfere with the findings of the Inquiry Officer or competent authority where they are not arbitrary or utterly perverse. The power to impose penalty on a delinquent officer is conferred on the competent authority either by an Act of legislature or rules made under the proviso to Art. 309 of the Constitution. If there has been an enquiry consistent with the rules and in accordance with principles of natural justice, what punishment would meet the ends of justice is a matter exclusively within the jurisdiction of the competent authority. If the penalty can lawfully be imposed and is imposed on the proved misconduct, the Tribunal has no power to substitute its own discretion for that of the authority. The adequacy of penalty unless it is mala fide is certainly not a matter of the Tribunal to concern itself with. The Tribunal also cannot interfere with the penalty if the conclusion of the Inquiry Officer or the competent authority is based on evidence even if some of it is found to be irrelevant or extraneous to the matter.”

8. Now, the present case at hand is to be considered with the touch stone of the principles enunciated by the Hon'ble Apex Court as mentioned above. On perusal of the materials on record, it is found that the enquiry officer has based his findings on the materials on record of the departmental proceeding. He has assigned cogent reasons in support of such findings. This is not a case of no evidence. Hence, it cannot be said that the findings of the enquiry officer are perverse.

9. So far the question of punishment is concerned;

it is found that serious misconducts have been proved against the workman in a properly held departmental enquiry. In this instant case, the workman has been found to be guilty of defrauding and cheating the bank and also of committing other serious misconducts. There is nothing wrong in the bank losing confidence of faith in such an employee and awarding punishment of dismissal. The workman was holding a position of trust, where honesty and integrity were in-built requirements of functioning and, therefore, the matter required to be dealt with firmly and not leniently. Hence, the punishment of dismissal from services of the workman cannot be said to be shockingly disproportionate to the proved misconducts. Hence, it is ordered:

ORDER

The action of the management of State Bank of India in dismissing Shri Pramod Kumar Ramteke, Ex-Assistant/Typist of Bhilai Branch vide order dated 05-08-2000 of Assistant General Manager, SBI, Bhilai (Disciplinary Authority) and upholding the same by Deputy General Manager, SBI, Raipur (Appellate Authority) is justified. The workman is not entitled to any relief.

J. P. CHAND, Presiding Officer

नई दिल्ली, 12 मार्च, 2012

का.आ. 1250.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सी.आई.टी.डी. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण हैदराबाद के पंचाट (संदर्भ संख्या 137/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-03-2012 को प्राप्त हुआ था।

[फा. सं. एल-42012/250/2003 आई.आर.(सीएम-II)]

डी. एस. एस. श्रीनिवासराव, डेस्क अधिकारी

New Delhi, the 12th March, 2012

S.O. 1250.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 137/2004) of the Central Government Industrial Tribunal-cum Labour Court, Hyderabad as shown in the Annexure, in the industrial dispute between t management of Central Institute of Tools Design, CITD, and their workmen, received by the Central Government on 12-03-2012.

[F. No. L-42012/250/2003-IR(CM-II)]

D.S.S. SRINIVASA RAO, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present: Shri Ved Prakash Gaur, Presiding Officer

Dated the 30th day of January, 2012

INDUSTRIAL DISPUTE No. 137/2004

Between:

Sri Mohsin Shariff,
S/o Md. Yousuf Ali,
R/o H. No. 17-10-A2,
Opp. IDPL Colony, Gurumurthy Nagar,
Hyderabad

....Petitioner

AND

1. Principal Director,
Central Institute of Tool Design (CITD),
Hyderabad.
2. Sri Mohan Reddy,
Contractor, CITD,
Hyderabad.

....Respondents

Appearances:

For the Petitioner : M/s. K. Ravinder Goud &
Y. Ranjeeth Reddy, Advocates.

For the Respondent : M/s. C. Niranjan Rao, M.
Subrahmanyam Sastry & L Chandra
Mohan Reddy, Advocates for RI
M/s. K.P. Jagan Reddy, K. Jyothi
& C. Rajeshwar Reddy, Advocates
for R2

AWARD

This reference is received from the Government of India, Ministry of Labour by its order No.L-42012/250/2003-IR(CM-II) dated 2-8-2004 under Section 10(1)(d) of the I.D. Act, 1947 to adjudicate the dispute between Sri Mohsin Shariff and the management of Central Institute of Tool Design, Balanagar, Hyderabad. The term of reference is as under :

SCHEDULE

"Whether the contract awarded by the management of Central Institute of Tool Design, Balanagar, Hyderabad to M/s. Mohan Reddy is sham or not? If so, the demand of Sri Mohsin for reinstatement in the establishment of Central Institute of Tool Design, Balanagar, Hyderabad is justified? If so, to what relief the workman is entitled to?"

The reference was registered in this Tribunal, numbered in this Tribunal as I.D. No. 135/2004 and notices were issued to the parties.

2. Sri Mohsin Shariff has filed his claim statement alleging therein that he joined as security guard in the year 1999 in Respondent's organization. He was appointed by Respondent contractor, who was appointed as contractor by Respondent No.1. Petitioner continued to work up to 31-3-2003. When he asked for the minimum wages, his services along with other workers were terminated from 1-4-2003 which is contrary to the Industrial Disputes Act, 1947. The Petitioner raised labour dispute before Assistant Labour Commissioner (C) and the

conciliation proceeding ended in failure, the matter was referred to the Ministry of Labour and Employment and who has referred this dispute to this Tribunal.

3. Petitioner has alleged that the nature of work done by him is of perennial and continuous nature and Petitioner was entitled for regularization. His services were liable to be regularized but his services were discontinued against the provisions of Industrial Disputes Act, 1947, other workers were engaged by the Respondent management. There was no contract between first and second Respondent every time, this prove that Petitioner was directly employed by first Respondent and first Respondent provided ESI and PF benefit to the Petitioner. The first Respondent changed service conditions and Petitioner was shown as contract labour. Petitioner has worked for about 5 years, the alleged contract between first Respondent and second Respondent is of sham character and is smokescreen between the Respondent No. 1 and 2. The Petitioner filed Provident Fund and Gratuity cases which were decided in his favour against which appeal has been filed by the first Respondent which is pending before Appellate Authority, as such, the action of management be declared to be illegal and contract between 1st Respondent and 2nd Respondent be declared as sham and smoky.

4. Respondent has filed counter-statement alleging therein that Respondent No. 1 is an autonomous body registered under Societies Registration Act having their office within the territory of A.P. The institute have engaged certain workmen through contractor Mr. G. Mohan Reddy for providing security and house keeping services. After the expiry of the contract between Mr. G. Mohan Reddy and the Respondent No.1, a fresh contract was entered into with the new contractor w.e.f. 1-4-2003. It is alleged that Respondent No.1 issued advertisement inviting tender for engagement of the labour contractor. Mr. G. Mohan Reddy earlier contractor was unsuccessful bidder and contract was awarded to M/s. Private Eye Security Services, Hyderabad. The workers of first contractor Mr. G. Mohan Reddy approached Assistant Labour Commissioner (C) for their continuation in the service through the new contractor which they could not succeed. The matter was referred to the government. Second Respondent has entered into contract with first Respondent on 1-9-1991 to provide housekeeping and security services who provided ESI and PF benefits to all the contract labourers and to pay minimum wages. Petitioner of this case is neither a worker of first Respondent nor he is entitled to be reinstated by 1st Respondent. The first Respondent is an institute under Small Scale Development Industrial Organization with an objective of providing training to the Electrical Personnel in designing and tool making, dies and moulds etc.. Government of India has no control over this organization. vide order dated 31-3-1970, the Government of India has

no control over the first Respondent. Government of India has no jurisdiction to refer the matter to this Tribunal, the reference is void *ab initio*. The State of Andhra Pradesh is the appropriate government in the present matter. This objection was raised before the Assistant Labour Commissioner (C) who has not considered this objection nor referred this objection to the Ministry. The Respondent No.1 has entered into contract for providing work force with M/s. Private Eye Security Services who has not been impleaded as party. Petitioner wanted to secure a job under the Private Eye Security Services, as contract between 1st Respondent and G. Mohan Reddy ceases to exist. The earlier contract with G. Mohan Reddy was valid and bona fide contract, it was neither sham nor smoky. The case law relied by the Petitioner has no relevance with the present case. The Petitioner has worked as contract labour and he was engaged by the contractor. There is no direct relationship of master and servant between the Petitioner and the first Respondent. Hence, petition deserves to be dismissed.

5. Parties were directed to produce their evidence. Petitioner Sri Mohsin Shariff has filed his affidavit as examination in chief and produced himself for cross-examination. He has marked 2 documents Ex. W1 and W2 in evidence.

6. Respondent has filed affidavit of Sri R. Jai Hind Babu, Assistant Director of the Institute who has marked 23 documents Ex.M1 to M21 and has presented himself for cross-examination.

7. I have heard counsels for both the parties and have perused the pleadings and evidence of the parties.

8. It has been argued by Learned Counsel for the Petitioner that the management has entered into a sham contract with Sri G. Mohan Reddy for providing labour force to a perennial and continuous nature job. The Petitioner after working for more than 5 years was shown as contract labour and some other workers also have worked for more than nine years. Sri G. Mohan Reddy used to provide labour to first Respondent. This way the contract between Sri G. Mohan Reddy and first Respondent was sham and smoky contract with a view to deprive the legally desirable candidate from seeking a regular employment and regular absorption in the service. The employees were directly employed by the management as such, in view of the case law reported in (2003) 6 SCC page 528 in the matter of Bharat Heavy Electricals Ltd. Vs. State of U.P. and others, wherein it is held that, "since there was sham and shadowy contract there was direct relationship of employer and employee between the Petitioner and the Respondent," the contract between first Respondent and second Respondent is sham and shadowy. It has further been argued by Learned Counsel or the Petitioner that perennial nature job was available in the Respondent's organization in that case,

work taken from contract labour is illegal and such contract labour should be deemed to be legally appointed by Respondent No. 1. He has further argued that in the matter of payment of gratuity the Controller of Gratuities has allowed application of the Petitioner for payment of the Gratuity that order is binding on both the parties. The Controller of the Gratuity has opined that the Petitioner is an employee of CITD, this finding of the Controller of Gratuity was neither set aside nor quashed by any competent authority as such, this Tribunal has to follow the finding of Controller of Gratuity and thus, it is clear and fully proved that Petitioner is an employee of CITD, he was illegally employed through a sham contract, therefore the termination or disengagement of the services of the Petitioner is violative of industrial law.

9. Against the above argument of Learned Counsel for Petitioner, Learned Counsel for the Respondent has argued that the Respondent has already raised an objection that the Respondent is not an organization of Central Government or an organization funded or controlled by the Central Government as such, the Central Government is not an appropriate authority in the present case. The first Respondent is a registered society under Societies Registration Act and it is being controlled and governed by said laws as such, the State Government is the competent authority in the present case. The reference made by Government of India is void *ab initio* and this Tribunal should not act upon the reference made by the Government of India. The Learned Counsel for the Respondent has further argued that so far as the order of Controller of Gratuity is concerned his order has been challenged by way of appeal before the Appellate Authority which is pending there as such, it cannot be said that the order passed by Controller of Provident Fund has become final or the finding arrived at by the Controller of Gratuity is binding on this Tribunal. He has further argued that the Petitioner himself resigned from the service of the contractor. G. Mohan Reddy himself was instrumental in moving this petition because G. Mohan Reddy has also joined the Petitioner of this case who engaged Sri K.P. Jagan Reddy and other Advocates in this case. Not only that the Petitioner in his cross-examination has admitted that a contract with M/s. Private Eye Security Services was entered into between first Respondent and M/s. Private Eye Security Services. He has further admitted that they have applied for refund of Gratuity amount. In cross-examination MW1 has admitted that it is not correct that labour contract with G. Mohan Reddy was sham and smoky. He has admitted that the contract with G. Mohan Reddy was terminated on 25-3-2003. From the year 1989 to 1991 Petitioner and other workmen were engaged as daily wagers by CITD and from 1991 to 2003 they worked through contractor G. Mohan Reddy. This prove that the claim of the Petitioner that they have worked from 1991 to 2003 under CITD as their employees is not correct. From

the own statement of the Petitioner it is proved that Petitioner was engaged by contractor Sri G. Mohan Reddy under whom he worked upto 2003. There after the contract ceased to exist and another contract was entered between M/s. Private Eye Security Services and Respondent No. 1 who did not engage the Petitioner and other workmen, as such, the Petitioner's claim for absorption or regularization in service by CITD is devoid of any merit.

10. On the basis of the arguments advanced by Learned Counsels for the parties, this Tribunal has to consider the following points:—

- (I) Whether the contract awarded by the management of CITD to Sri G. Mohan Reddy is sham or not ?
- (II) Whether the demand of Sri Mohsin Sharifff for reinstatement in the establishment of CITD is justified ?
- (III) To what relief if any the workman is entitled ?

11. **Point No.(I):** Petitioner has alleged in his claim statement that management engaged some workers through contractor namely Sri G. Mohan Reddy for providing security and house keeping services. It is further alleged that after expiry of said contract of Sri G. Mohan Reddy a fresh contract was entered into with new contractor w.e.f. 1-4-2003. It has further been alleged that after expiry of contract with Sri G. Mohan Reddy, Respondent management issued an advertisement and followed procedure for engaging contract labour, in which the earlier contractor was unsuccessful bidder in the said procedure as such, the contract was awarded to M/s. Private Eye Security Services as they were the lowest bidder. In view of the fact that new contract came into existence with another contractor the Petitioner approached Assistant Labour Commissioner(C) for his continuation in service through the new contractor. The Petitioner has alleged that he joined as security guard in first Respondent organization and second Respondent who is a contractor appointed him in first Respondent's organization and the contractor provided ESI and PF to Petitioner. The Petitioner worked in that capacity upto 31-3-2003. When Petitioner asked for minimum wages the first Respondent terminated his services from 1-4-2003 onwards. The Petitioner approached conciliation officer who entered into conciliation proceedings which resulted in failure. The Petitioner contended that the nature of work performed by the Petitioner is perennial in nature and continuous as such, the Petitioner is entitled for regularization. When Petitioner asked for minimum wages, his services were terminated and after termination of Petitioner and other workers' some other workers were engaged through M/s. Private Eye Security Services by first Respondent management. Petitioner was directly employed by Respondent management and Respondent management provided ESI and PF benefits. The management has changed the service condition showing

the Petitioner as contract labour. Thus, the alleged contract with Sri G. Mohan Reddy is a sham and shadowy contract. The second Respondent is smoke skilled employer to the Petitioner.

12. The management has denied above allegation and has alleged that the management is autonomous body and for its security and house keeping services institute engaged contractor namely Sri G. Mohan Reddy, Respondent No.2, to provide security and house keeping service to the institute whose contract expired and a fresh contract was entered into with another contractor from 1-4-2003. Sri G. Mohan Reddy could not succeed to secure second time contract. The new contractor M/s. Private Eye Security Services was lowest bidder and he was offered the contract. He did not engage the Petitioner under his control. Petitioner approached Assistant Labour Commissioner(C), who started conciliation proceeding which resulted in failure and the matter was referred to central government. Petitioner was under the direct control of Respondent No. 2 who was a contractor who agreed to provide ESI and PF benefits to contract labours and minimum wages to them. It is incorrect to say that Petitioner was directly employed by the management and Sri G. Mohan Reddy was a screen between management and the Petitioner. It is alleged that the contract with Sri G. Mohan Reddy was a genuine and valid contract for providing house keeping and security services to the management whose contract lasted upto 31-3-2003. A fresh contract was entered into between M/s. Private Eye Security Services and first Respondent. It is not correct to suggest that the contract entered into between Sri G. Mohan Reddy and first Respondent was sham and shadowy.

13. Sri G. Mohan Reddy has not filed any reply in this case. Though, there is allegation of Petitioner and counter allegation from the side of the management. The claim of Petitioner is that there was no contract between Sri G. Mohan Reddy and management whereas management alleges that there was contract and has filed documents Ex.M 1 to M21 to prove that the contract was entered into between the management of CITD and Sri G. Mohan Reddy on 1-9-1991 for providing work force to the management. Copy of contract document, application of Sri G. Mohan Reddy and information to Sri G. Mohan Reddy in the form of Ex. M3, M4, M5, M6, M7, M8, M9, M10, M11 and M12 are on the record, which have been proved by witness for the management. Apart from the documentary evidence there is statement of the Petitioner on oath along with documentary evidence Ex.W1 and W2 to show that the Petitioner has worked in the CITD but the documents of the Petitioner Ex. W2 show that the Petitioner was shown as contract labour in their PF scheme papers and Sri G. Mohan Reddy has been shown as their contractor. This paper has been filed by the Petitioner himself and the Petitioner has filed his affidavit as examination in chief where it has been stated that there

was no contract between Sri G. Mohan Reddy and Respondent. He has denied that contractor Sri G. Mohan Reddy has paid salary to him since 1999 onwards. He has further stated that he has made representation before Assistant Labour Commissioner(C) for employment under new contractor. Petitioner has admitted in his cross examination that at the time of withdrawal of PF amount Mr. Mohan Reddy has signed on the PF withdrawal form, it proves that he is an employee under Sri G. Mohan Reddy, whose organization the Petitioner has left. This material fact has been proved by the management witness Sri J. Jaihind Babu, who stated that the Petitioner was contract labour of Sri G. Mohan Reddy, said Sri G. Mohan Reddy has entered into a contract with management to provide security and house keeping jobs to the management, contract agreement was entered into on 1-9-1991 which is on the record.

14. There is evidence that M/s. Private Eye Security Services Ltd., entered into a contract who did not engage the Petitioner as labour. Petitioner made application to the Assistant Labour Commissioner(C) to provide job under second contractor who did not employ him as such, the Petitioner approached this Tribunal. Respondent's documents EX.M1 to M21 clearly prove that a contract agreement was entered into between the management and Sri G. Mohan Reddy as back as in the year 1991 and renewed again from 1991 to 2003 every year and the Petitioner was engaged by Sri G. Mohan Reddy. There is no iota of evidence to prove that the Petitioner was engaged directly by the management. Not only that the Petitioner approached Assistant Labour Commissioner(C) for his employment under the second contractor M/s. Private Eye Security Services. This prove that the Petitioner was simply contract labourer. Contractor Sri G. Mohan Reddy has filed his vakalath in this case from Petitioner side but he has not filed petition stating that he was not contractor in CITD. Besides this, there are letters of renewal of contract Ex.M3 to M12 which prove that contract of Sri G. Mohan Reddy was renewed from time to time. This prove that Sri G. Mohan Reddy was a contractor and Petitioner was employed by Sri G. Mohan Reddy for security and house keeping jobs of the CITD.

15. It has been argued by the Learned Counsel for the Petitioner that CITD is the real employer of the Petitioner because Commissioner of Gratuity has held in the matter of these Petitioners that the Petitioners are employees of CITD and directed the management of CITD to pay the gratuity. His order has been challenged by the management before the Appellate Authority and the matter is pending before the Appellate Authority. Thus, the matter is finally settled by the competent authority that the Petitioner of this case is employee of the CITD management hence, this Tribunal has no other option but to uphold the finding of the Payment of Gratuity Authority. Against this argument of the Learned Counsel for the Petitioner, the

counsel for the management has argued that the order of the Payment of Gratuity Commissioner or Controlling Authority is not final, said order has been challenged by the management before Appellate Authority and the appeal is pending before the Appellate Authority as such, it can not be said that the order of the Gratuity Authority has become final and binding on this Tribunal. I have considered this aspect of the case. Since the order of the Payment of Gratuity Authority has been challenged by management by appeal which is pending before the Appellate Authority, the matter is les pendance, i.e., pending for adjudication before the competent authority as such, this Tribunal is not bound by the finding of the Controlling Authority and Director of Payment of Gratuity.

16. More over, Respondent management has filed xerox copy of the statement from Employees State Insurance Corporation where Sri G. Mohan Reddy, a labour contractor is said to be the Principal employer who has deposited contribution towards the Provident Fund for Petitioner of this case in the year 2002, a detailed statement of the same has been filed as Ex.M 19. There is another document filed by the Respondents Ex.M 17 which is the xerox copy of the extract from the payment of wages register. The payment has been made by Sri G. Mohan Reddy to all the Petitioners, this shows that the payment to the Petitioner was not made directly by the management of CITD but it was paid by Sri G. Mohan Reddy, the contractor. Thus, the test of relationship of employer and employee as laid down by the Hon'ble Supreme Court does not qualify in the present case. It is proved that Petitioner was employed by Sri G. Mohan Reddy who was a contractor, he made payment of the wages to the Petitioner. He deducted his PF and deposited the same with the competent authority as such, the contract between Sri G. Mohan Reddy and management is proved to be genuine and valid in this case. The Petitioner has not been able to prove that the contract of Sri G. Mohan Reddy was sham and shadowy, as such, this Tribunal has come to the conclusion that the contract between the management of CITD and Sri G. Mohan Reddy is not a sham and shadowy contract. Point No.(I) is decided accordingly.

17. **Point No.(II):** This Tribunal has to consider whether the demand of the Petitioner for reinstatement in the establishment is justified or not. It has been argued by the Learned Counsel for the Petitioner that Petitioner was employed by the CITD management and CITD management has disengaged the Petitioner without following due process of the law as such, the termination order of the Petitioner is illegal and Petitioner deserves to be reinstated in the service. He has further argued that the management of CITD and Sri G. Mohan Reddy entered into a shadowy contract, Sri G. Mohan Reddy was a shadow of management and principal employer is CITD. The employees were directly employed by the management as such, in view of the case law reported in (2003) 6 SCC page

528 in the matter of Bharat Heavy Electricals Ltd Vs. State of U.P. and others, wherein it is held that, "since there was sham and shadowy contract there was direct relationship of employer and employee between the Petitioner and the Respondent." Petitioner was an employee of the Respondent No. 1 as such, his termination from the service without following the due procedure of the law is illegal.

18. In the present case Petitioner has neither claimed nor adduced any evidence that the CITD management used to maintain attendance register or supervised work of the petitioner through their own employees as such, it can not be said that the Petitioner has fulfilled the test of relationship of master and servant between the Petitioner and the management. The Petitioner has nowhere alleged that the management was maintaining attendance register of the Petitioner or the management's employee was supervising the work of the Petitioner. Respondent's counsel has argued that the Petitioner has not been able to prove test successfully, which is laid down by the Hon'ble Supreme Court. I have considered this aspect of the argument of the Learned Counsel for the parties and has perused the evidence of Petitioner and the claim statement filed by the Petitioner as well. There is no mention of a single word that the maintenance of the attendance register or supervision of the work was directly done by CITD or through its own employee as such, the test laid down by Hon'ble Supreme Court is not fulfilled in the present case.

19. There is evidence on the record to prove that the Petitioner was engaged through Sri G. Mohan Reddy, his PF and ESI subscriptions were deducted and deposited by Sri G. Mohan Reddy till there was a subsisting contract between Sri G. Mohan Reddy and the CITD management and Petitioner left work after termination of the contract with Sri G. Mohan Reddy. Not only that the Petitioner approached Assistant Labour Commissioner(C) for directing the newly appointed contractor i.e., M/s. Private Eye Security Services to re-employ this Petitioner which he could not prove. It is fully proved that Petitioner was contract labour engaged by Sri G. Mohan Reddy, and his services came to be discontinued upon the expiry of the contract or termination of the contract with Sri G. Mohan Reddy and Petitioner's services cease to exist. The services of the Petitioner were neither terminated nor disengaged by the Respondent No.1 management. The Petitioner's services were simply a contract service which ceased to exist consequent upon termination of contract, as such there is no illegality or irregularity on the part of the Respondent No.1 in disengagement of the Petitioner from the services, the Petitioner is not eligible for reinstatement by the Respondent No.1 as claimed by the Petitioner. The case law cited by Learned Counsel for the Petitioner i.e., BHEL Vs. State of U.P. reported in (2003) 6 SCC page 528 is not applicable in the present case and Petitioner is not entitled for reinstatement. Point No.(II) is decided accordingly.

20. Point No. (III): The Petitioner has not been able to prove that contract with Sri G. Mohan Reddy was sham or shadowy nor has been able to prove that his services were terminated illegally by the management of CITD. As such, the Petitioner is not entitled for any relief.

21. In the result, this Tribunal has come to the conclusion that, the contract awarded by the management of Central Institute of Tool Design, Balanagar, Hyderabad to M/s. G. Mohan Reddy is not sham. The demand of Sri Mohsin Shariff for reinstatement in the establishment of Central Institute of Tool Design, Balanagar, Hyderabad is not justified as such, the Petitioner is not entitled for any relief. Reference is answered accordingly.

Award passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant transcribed by her corrected by me on this the 30th day of January, 2012.

VED PRAKASH GAUR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner

WW1: Sri Mohsin Shariff

Witnesses examined for the Respondent

MW 1: Sri R. Jaihind Babu

Documents marked for the Petitioner

Ex. W1: Copy of ESI Card

Ex. W2: Copy of PF slip

Documents marked for the Respondent

Ex. M1: Copy of representation of Petitioner to ALC(C)

Ex. M2: Authorization dt. 13-4-2010

Ex. M3: Service contract agreement with Sri G. Mohan Reddy by R1 dt. 1-9-1991

Ex. M4: Copy of letter renewing the service contract dt. 16-9-92 from 1-9-92 to 31-8-93

Ex. M5: Office copy of letter renewing the service contract dt. 2-8-93 from 1-9-93 to 31-8-94

Ex. M6: Office copy of letter renewing the service contract dt. 6-9-94 from 1-9-94 to 31-8-95

Ex. M7: Office copy of letter renewing the service contract dt. 8-10-95 from 1-9-95 to 31-8-1996

Ex. M8: Office copy of letter renewing the service contract dt. 4-9-96 from 1-9-96 to 31-8-1997

Ex. M9: Office copy of letter renewing the service contract dt. 8-9-97 from 1-9-97 to 31-8-98

Ex.M10: Office copy of letter renewing the service contract dt. 8-9-98 from 1-9-98 to 31-8-99

Ex.M11: Office copy of letter renewing the service contract dt. 9-9-99 from 1-9-99 to 31-8-2000

Ex.M12: Office copy of letter renewing the service contract dt. 24-8-2001 from 1-9-2001 to 31-8-2002

Ex.M13: Office copy of letter terminating the service contract dt. 25-3-03 w.e.f 1-4-2003

Ex.M14: Original Memorandum of Settlement & Rules & Regulations

Ex.M15: Copy of resolution dt. 31-3-1970

Ex.M16: Copy of security contract agreement dt. 22-4-2003

Ex.M17: Copy of Payment register - of wages

Ex.M18: Copy of ESI statement

Ex.M19: Copy of Statement of Employees Pension Scheme

Ex.M20: Office copy of Ir. No. Citd/Estd/CL/2004/953 & 954 dt. 29.5.04 to ALC(C) by management

Ex.M21: Office copy of Ir. No. Citd/Estd/CL/2004/1123 & 1124 dt. 5.6.04 to ALC(C) by management

नई दिल्ली, 12 मार्च, 2012

का.आ. 1251.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सी.आई.टी.डी. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण हैदराबाद के पंचाट (संदर्भ संख्या 140/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-03-2012 को प्राप्त हुआ था।

[फा. सं. एल-42012/253/2003-आई.आर.(सीएम-II)]

डी. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 12th March, 2012

S.O. 1251.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 140/2004) of the Central Government Industrial Tribunal-cum-Labour Court Hyderabad as shown in the Annexure, in the Industrial dispute between the management of Central Institute of Tools Design, CITD, and their workmen, received by the Central Government on 12-03-2012.

[F. No. L-42012/253/2003-IR(CM-II)]

D.S.S. SRINIVASA RAO, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present: Shri Ved Prakash Gaur, Presiding Officer

Dated the 30th day of January, 2012

INDUSTRIAL DISPUTE No. 140/2004

Between:

Sri F.M. Patel,
S/o J. Adivaiah, Razak Patel,
R/o H. No. 17-2, IDPL Colony,
Gurumurthy Nagar, Hyderabad-37.Petitioner

AND

1. Principal Director,
Central Institute of Tools Design (CITD),
Balanagar, Hyderabad.
2. Sri Mohan Reddy,
Contractor, CITD,
Hyderabad.Respondents

Appearances:

For the Petitioner : M/s. K. Ravinder Goud &
Y. Ranjeeth Reedy, Advocates

For the Respondent : M/s. C. Niranjan Rao, M.
Subrahmanyam Sastry & L Chandra
Mohan Reddy, Advocates for RI
M/s. K.P. Jagan Reddy, K. Jyothi
& C. Rajeshwar Reddy, Advocates
for R2

AWARD

This reference is received from the Government of India, Ministry of Labour by its order No.L-42012/253/2003-IR(CM-II) dated 2-8-2004 under section 16(1)(d) of the I.D. Act, 1947 to adjudicate the dispute between Sri F.M. Patel and the management of Central Institute of Tool Design, Balanagar, Hyderabad. The term of reference is as under:

SCHEDULE

“Whether the contract awarded by the management of Central Institute of Tool Design, Balanagar, Hyderabad to M/s. Mohan Reddy is sham or not ? If so, the demand of Sri F.M. Patel for reinstatement in the establishment of Central Institute of Tools Design, Balanagar, Hyderabad is justified? If so, to what relief the workman is entitled to?”

The reference was registered in this Tribunal, numbered in this Tribunal as I.D. No. 140/2004 and notices were issued to the parties.

2. Sri F.M. Patel has filed his claim statement alleging therein that he joined as security guard in the year 2001 in

Respondent's organization. He was appointed by Respondent contractor, who was appointed as contractor by Respondent No.1, Petitioner continued to work upto 31-3-2003. When he asked for the minimum wages, his services along with other workers were terminated from 1-4-2003 which is contrary to the Industrial Disputes Act, 1947. The Petitioner raised labour dispute before Assistant Labour Commissioner(C) and the conciliation proceeding ended in failure, the matter was referred to the Ministry of Labour and Employment and who has referred this dispute to this Tribunal.

3. Petitioner has alleged that the nature of work done by him is of perennial and continuous nature and Petitioner was entitled for regularization. His services were liable to be regularized but his services were discontinued against the provisions of Industrial Disputes Act, 1947, other workers were engaged by the Respondent management. There was no contract between first and second Respondent every time, this prove that Petitioner was directly employed by first Respondent and first Respondent provided ESI and PF benefit to the Petitioner. The first Respondent changed service conditions and Petitioner was shown as contract labour. Petitioner has worked for about 3 years, the alleged contract between first Respondent and second Respondent is of sham character and is smokescreen between the Respondent No.1 and 2. The Petitioner filed Provident Fund and Gratuity cases which were decided in his favour against which appeal has been filed by the first Respondent which is pending before Appellate Authority, as such, the action of management be declared to be illegal and contract between 1st Respondent and 2nd Respondent be declared as sham and smoky.

4. Respondent has filed counter statement alleging therein that Respondent No.1 is an autonomous body registered under Societies Registration Act having their office within the territory of A.P. The institute have engaged certain workmen through contractor Mr. G. Mohan Reddy for providing security and house keeping services. After the expiry of the contract between Mr. G. Mohan Reddy and the Respondent No.1, a fresh contract was entered into with the new contractor w.e.f. 1-4-2003. It is alleged that Respondent No.1 issued advertisement inviting tender for engagement of the labour contractor. Mr. G. Mohan Reddy earlier contractor was unsuccessful bidder and contract was awarded to M/s. Private Eye Security Services, Hyderabad. The workers of first contractor Mr. G. Mohan Reddy approached Assistant Labour Commissioner (C) for their continuation in the service through the new contractor which they could not succeed. The matter was referred to the government. Second Respondent has entered into contract with first Respondent on 1-9-1991 to provide house keeping and security services who provided ESI and PF benefits to all the contract labourers and to pay minimum wages.

Petitioner of this case is neither a worker of first Respondent nor he is entitled to be reinstated by 1st Respondent. The first Respondent is an institute under Small Scale Development Industrial Organization with an objective of providing training to the Electrical Personnel in designing and tool making, dies and moulds etc.. Government of India has no control over this organization, vide order dated 31-3-1970 the Government of India has no control over the first Respondent. Government of India has no jurisdiction to refer the matter to this Tribunal, the reference is void ab initio. The State of Andhra Pradesh is the appropriate government in the present matter. This objection was raised before the Assistant Labour Commissioner (C) who has not considered this objection nor referred this objection to the Ministry. The Respondent No.1 has entered into contract for providing work force with M/s. Private Eye Securities Services who has not been impleaded as party. Petitioner wanted to secure a job under the Private Eye Security Services, as contract between 1st Respondent and G. Mohan Reddy ceases to exist. The earlier contract with G. Mohan Reddy was valid and bonafide contract, it was neither sham nor smoky. The case law relied by the Petitioner has no relevance with the present case. The Petitioner has worked as contract labour and he was engaged by the contractor. There is no direct relationship of master and servant between the Petitioner and the first Respondent. Hence, petition deserves to be dismissed.

5. Parties were directed to produce their evidence. Petitioner Sri F.M. Patel has filed his affidavit as examination in chief and produced himself for cross examination. He has marked 2 documents Ex.W1 and W2 in evidence.

6. Respondent has filed affidavit of Sri R. Jai Hind Babu, Assistant Director of the Institute who has marked 21 documents Ex.M 1 to M21 and has presented himself for cross examination.

7. I have heard counsels for both the parties and have perused the pleadings and evidence of the parties.

8. It has been argued by Learned Counsel for the Petitioner that the management has entered into a sham contract with Sri G. Mohan Reddy for providing labour force to a perennial and continuous nature job. The Petitioner after working for more than 3 years was shown as contract labour and some other workers also have worked for more than nine years. Sri G. Mohan Reddy used to provide labour to first Respondent. This way the contract between Sri G. Mohan Reddy and first Respondent was sham and smoky contract with a view to deprive the legally desirable candidate from seeking a regular employment and regular absorption in the service. The employees were directly employed by the management as such, in view of the case law reported in (2003) 6 SCC page 528 in the matter of Bharat Heavy

Electricals Ltd Vs. State of U.P. and others, wherein it is held that, "since there was sham and shadowy contract there was direct relationship of employer and employee between the Petitioner and the Respondent," the contract between first Respondent and second Respondent is sham and shadowy. It has further been argued by Learned Counsel for the Petitioner that perennial nature job was available in the Respondent's organization in that case, work taken from contract labour is illegal and such contract labour should be deemed to be legally appointed by Respondent No.1. He has further argued that in the matter of payment of gratuity the Controller of Gratuities has allowed application of the Petitioner for payment of the Gratuity that order is binding on both the parties. The Controller of the Gratuity has opined that the Petitioner is an employee of CITD, this finding of the Controller of Gratuity was neither set aside nor quashed by any competent authority as such, this Tribunal has to follow the finding of Controller of Gratuity and thus, it is clear and fully proved that Petitioner is an employee of CITD, he was illegally employed through a sham contract, therefore the termination or disengagement of the services of the Petitioner is violative of industrial law.

9. Against the above argument of Learned Counsel for Petitioner, Learned Counsel for the Respondent has argued that the Respondent has already raised an objection that the Respondent is not an organization of Central Government or an organization funded or controlled by the Central Government as such, the Central Government is not an appropriate authority in the present case. The first Respondent is a registered society under Societies Registration Act and it is being controlled and governed by said laws as such, the State Government is the competent authority in the present case. The reference made by Government of India is void ab initio and this Tribunal should not act upon the reference made by the Government of India. The Learned Counsel for the Respondent has further argued that so far as the order of Controller of Gratuity is concerned his order has been challenged by way of appeal before the Appellate Authority which is pending there as such, it can not be said that the order passed by Controller of Provident Fund has become final or the finding arrived at by the Controller of gratuity is binding on this Tribunal. He has further argued that the Petitioner himself resigned from the service of the contractor. He has argued that the Petitioner has voluntarily resigned from the post of contract labour from organization of G. Mohan Reddy, after his resignation from the services of G. Mohan Reddy, he has taken back his Provident Fund amount since the contract with G. Mohan Reddy was not renewed by first Respondent. G. Mohan Reddy himself was instrumental in moving this petition because G. Mohan Reddy has also joined the Petitioner of this case who engaged Sri K.P. Jagan Reddy and other Advocates in this case. Not only that the Petitioner in his

cross examination has admitted that a contract with M/s. Private Eye Security Services was entered into between first Respondent and M/s. Private Eye Security Services. He has further admitted that they have applied for refund of Gratuity amount. In cross examination MW1 has admitted that it is not correct that labour contract with G. Mohan Reddy was sham and smoky. He has admitted that the contract with G. Mohan Reddy was terminated on 25-3-2003. From the year 1989 to 1991 some workmen were engaged as daily wagers by CITD and from 1991 to 2003 they worked through contractor G. Mohan Reddy. This prove that the claim of the Petitioner that they have worked from 1991 to 2003 under CITD as their employees is not correct. From the own statement of the Petitioner it is proved that earlier Petitioner was engaged by contractor Sri G. Mohan Reddy under whom he worked upto 2003. There after the contract ceased to exist and another contract was entered between M/s. Private Eye Security Services and Respondent No.1 who did not engage the Petitioner and other workmen, as such, the Petitioner's claim for absorption or regularization in service by CITD is devoid of any merit.

10. On the basis of the arguments advanced by Learned Counsels for the parties, this Tribunal has to consider the following points:—

- (I) Whether the contract awarded by the management of CITD to Sri G. Mohan Reddy is sham or not?
- (II) Whether the demand of Sri F.M. Patel for reinstatement in the establishment of CITD is justified?
- (III) To what relief if any the workman is entitled?

11. **Point No. (I):** Petitioner has alleged in his claim statement that management engaged some workers through contractor namely Sri G. Mohan Reddy for providing security and house keeping services. It is further alleged that after expiry of said contract of Sri G. Mohan Reddy a fresh contract was entered into with new contractor w.e.f. 1-4-2003. It has further been alleged that after expiry of contract with Sri G. Mohan Reddy, Respondent management issued an advertisement and followed procedure for engaging contract labour, in which the earlier contractor was unsuccessful bidder in the said procedure as such, the contract was awarded to M/s. Private Eye Security Services as they were the lowest bidder. In view of the fact that new contract came into existence with another contractor the Petitioner approached Assistant Labour Commissioner(C) for his continuation in service through the new contractor. The Petitioner has alleged that he joined as security guard in first Respondent organization and second Respondent who is a contractor appointed him in first Respondent's organization and the contractor provided ESI and PF to Petitioner. The Petitioner worked in that capacity upto

31.3.2003. When Petitioner asked for minimum wages the first Respondent terminated his services from 1-4-2003 onwards. The Petitioner approached conciliation officer who entered into conciliation proceedings which resulted in failure. The Petitioner contended that the nature of work performed by the Petitioner is perennial in nature and continuous as such, the Petitioner is entitled for regularization. When Petitioner asked for minimum wages, his services were terminated and after termination of Petitioner and other workers' some other workers were engaged through M/s. Private Eye Security Services by first Respondent management. Petitioner was directly employed by Respondent management and Respondent management provided ESI and PF benefits. The management has changed the service condition showing the Petitioner as contract labour. Thus, the alleged contract with Sri G. Mohan Reddy is a sham and shadowy contract. The second Respondent is smoke skilled employer to the Petitioner.

12. The management has denied above allegation and has alleged that the management is autonomous body and for its security and house keeping services institute engaged contractor namely Sri G. Mohan Reddy, Respondent No.2, to provide security and house keeping service to the institute whose contract expired and a fresh contract was entered into with another contractor from 1-4-2003. Sri G. Mohan Reddy could not succeed to secure second time contract. The new contractor M/s. Private Eye Security Services was lowest bidder and he was offered the contract. He did not engage the Petitioner under his control. Petitioner approached Assistant Labour Commissioner (C), who started conciliation proceeding which resulted in failure and the matter was referred to central government. Petitioner was under the direct control of Respondent No.2 who was a contractor who agreed to provide ESI and PF benefits to contract labours and minimum wages to them. It is incorrect to say that Petitioner was directly employed by the management and Sri G. Mohan Reddy was a screen between management and the Petitioner. It is alleged that the contract with Sri G. Mohan Reddy was a genuine and valid contract for providing house keeping and security services to the management whose contract lasted upto 31-3-2003. A fresh contract was entered into between M/s. Private Eye Security Services and first Respondent. It is not correct to suggest that the contract entered into between Sri G. Mohan Reddy and first Respondent was sham and shadowy.

13. Sri G. Mohan Reddy has not filed any reply in this case. Though, there is allegation of Petitioner and counter allegation from the side of the management. The claim of Petitioner is that there was no contract between Sri G. Mohan Reddy and management whereas management alleges that there was contract and has filed documents EX.M 1 to M21 to prove that the contract was entered into between the management of CITD and Sri G.

Mohan Reddy on 1-9-1991 for providing work force to the management. Copy of contract document, application of Sri G. Mohan Reddy and information to Sri G. Mohan Reddy in the form of Ex.M4, M5, M6, M7, M8, M9, M10, M11 and M12 are on the record, which have been proved by witness for the management. Apart from the documentary evidence there is statement of the Petitioner on oath along with documentary evidence Ex.W1 to W2 to show that the Petitioner has worked in the CITD but the documents of the Petitioner show that the Petitioner was shown as contract labour in their PF scheme papers and Sri G. Mohan Reddy has been shown as their contractor. This paper has been filed by the Petitioner himself and the Petitioner has filed his affidavit as examination in chief where it has been stated that there was no contract between Sri G. Mohan Reddy and Respondent. He has further stated that he has made representation before Assistant Labour Commissioner(C) for employment under new contractor. Petitioner has accepted that Ex.M1 bears his signature. Petitioner admitted that he has withdrawn his PF amount. This material fact has been proved by the management witness Sri J. Jaihind Babu, who stated that the Petitioner was contract labour of Sri G. Mohan Reddy, said Sri G. Mohan Reddy has entered into a contract with management to provide security and house keeping jobs to the management, contract agreement was entered into on 1-9-1991 which is on the record.

14. There is evidence that M/s. Private Eye Security Services Ltd., entered into a contract who did not engage the Petitioner as labour. Petitioner made application to the Assistant Labour Commissioner(C) to provide job under second contractor who did not employ him as such, the Petitioner approached this Tribunal. Respondent's documents Ex.M1 to M21 clearly prove that a contract agreement was entered into between the management and Sri G. Mohan Reddy as back as in the year 1991 and renewed again from 1991 to 2003 every year and the Petitioner was engaged by Sri G. Mohan Reddy. There is no iota of evidence to prove that the Petitioner was engaged directly by the management. Not only that the Petitioner approached Assistant Labour Commissioner(C) for his employment under the second contractor M/s. Private Eye Security Services. This prove that the Petitioner was simply contract labourer. Contractor Sri G. Mohan Reddy has filed his vakalath in this case from Petitioner side but he has not filed petition stating that he was not contractor in CITD. Besides this, there are letters of renewal of contract Ex.M4 to M12 which prove that contract of Sri G. Mohan Reddy was renewed from time to time. This prove that Sri G. Mohan Reddy was a contractor and Petitioner was employed by Sri G. Mohan Reddy for security and house keeping jobs of the CITD.

15. It has been argued by the Learned Counsel for the Petitioner that CITD is the real employer of the Petitioner because Commissioner of Gratuity has held in

the matter of these Petitioners that the Petitioners are employees of CITD and directed the management of CITD to pay the gratuity. His order has been challenged by the management before the Appellate Authority and the matter is pending before the Appellate Authority. Thus, the matter is finally settled by the competent authority that the Petitioner of this case is employee of the CITD management hence, this Tribunal has no other option but to uphold the finding of the Payment of Gratuity Authority. Against this argument of the Learned Counsel for the Petitioner, the counsel for the management has argued that the order of the Payment of Gratuity Commissioner or Controlling Authority is not final, said order has been challenged by the management before Appellate Authority and the appeal is pending before the Appellate Authority as such, it can not be said that the order of the Gratuity Authority has become final and binding on this Tribunal. I have considered this aspect of the case. Since the order of the Payment of Gratuity Authority has been challenged by management in appeal which is pending before the Appellate Authority, the matter is les pendency, i.e., pending for adjudication before the competent authority as such, this Tribunal is not bound by the finding of the Controlling Authority and Director of Payment of Gratuity.

16. More over, Respondent management has filed xerox copy of the statement from Employees State Insurance Corporation where Sri G. Mohan Reddy, a labour contractor is said to be the Principal employer who has deposited contribution towards the Provident Fund for Petitioner of this case in the year 2001-2002, a detailed statement of the same has been filed as Ex.MI8. There is another document filed by the Respondents EX.M17 which is the xerox copy of the extract from the payment of wages register. The payment has been made by Sri G. Mohan Reddy to all the Petitioners, this shows that the payment to the Petitioner was not made directly by the management of CITD but it was paid by Sri G. Mohan Reddy, the contractor. Thus, the test of relationship of employer and employee as laid down by the Hon'ble Supreme Court does not qualify in the present case. It is proved that Petitioner was employed by Sri G. Mohan Reddy who was a contractor, he made payment of the wages to the Petitioner. He deducted his PF and deposited the same with the competent authority as such, the contract between Sri G. Mohan Reddy and management is proved to be genuine and valid in this case. The Petitioner has not been able to prove that the contract of Sri G. Mohan Reddy was sham and shadowy, as such, this Tribunal has come to the conclusion that the contract between the management of CITD and Sri G. Mohan Reddy is not a sham and shadowy contract. Point No.(I) is decided accordingly.

17. **Point No.(II):** This Tribunal has to consider whether the demand of the Petitioner for reinstatement in the establishment is justified or not. It has been argued by

the Learned Counsel for the Petitioner that Petitioner was employed by the CITD management and CITD management has disengaged the Petitioner without following due process of the law as such, the termination order of the Petitioner is illegal and Petitioner deserves to be reinstated in the service. He has further argued that the management of CITD and Sri G. Mohan Reddy entered into a shadowy contract, Sri G. Mohan Reddy was a shadow of management and principal employer is CITD. The employees were directly employed by the management as such, in view of the case law reported in (2003) 6 SCC page 528 in the matter of Bharat Heavy Electricals Ltd Vs. State of U.P. and others, wherein it is held that, "since there was sham and shadowy contract there was direct relationship of employer and employee between the Petitioner and the Respondent." Petitioner was an employee of the Respondent No.1 as such, his termination from the service without following the due procedure of the law is illegal.

18. In the present case Petitioner has neither claimed nor adduced any evidence that the CITD management used to maintain attendance register or supervised work of the petitioner through their own employees as such, it can not be said that the Petitioner has fulfilled the test of relationship of master and servant between the Petitioner and the management. The Petitioner has nowhere alleged that the management was maintaining attendance register of the Petitioner or the management's employee was supervising the work of the Petitioner. Respondent's counsel has argued that the Petitioner has not been able to prove test successfully, which is laid down by the Hon'ble Supreme Court. I have considered this aspect of the argument of the Learned Counsel for the parties and has perused the evidence of Petitioner and the claim statement filed by the Petitioner as well. There is no mention of a single word that the maintenance of the attendance register or supervision of the work was directly done by CITD or through its own employee as such, the test laid down by Hon'ble Supreme Court is not fulfilled in the present case.

19. There is evidence on the record to prove that the Petitioner was engaged through Sri G. Mohan Reddy, his PF and ESI subscriptions were deducted and deposited by Sri G. Mohan Reddy till there was a subsisting contract between Sri G. Mohan Reddy and the CITD management and Petitioner left work after termination of the contract with Sri G. Mohan Reddy. Not only that the Petitioner approached Assistant Labour Commissioner(C) for directing the newly appointed contractor i.e., M/s. Private Eye Security Services to re-employ this Petitioner which he could not prove. It is fully proved that Petitioner was contract labour engaged by Sri G. Mohan Reddy, and his services came to be discontinued upon the expiry of the contract or termination of the contract with Sri G. Mohan Reddy and Petitioner's services cease to exist. The services of the Petitioner were neither terminated nor disengaged

by the Respondent No.1 management. The Petitioner's services were simply a contract service which ceased to exist consequent upon termination of contract, as such there is no illegality or irregularity on the part of the Respondent No.1 in disengagement of the Petitioner from the services, the Petitioner is not eligible for reinstatement by the Respondent No.1 as claimed by the Petitioner. The case law cited by Learned Counsel for the Petitioner i.e., BHEL Vs. State of U.P. reported in (2003) 6 SCC page 528 is not applicable in the present case and Petitioner is not entitled for reinstatement. Point No. (II) is decided accordingly.

20. Point No. (III): The Petitioner has not been able to prove that contract with Sri G. Mohan Reddy was sham or shadowy nor has been able to prove that his services were terminated illegally by the management of CITD. As such, the Petitioner is not entitled for any relief.

21. In the result, this Tribunal has come to the conclusion that, the contract awarded by the management of Central Institute of Tools Design, Balanagar, Hyderabad to M/s. G. Mohan Reddy is not sham. The demand of Sri F.M. Patel for reinstatement in the establishment of Central Institute of Tool Design, Balanagar, Hyderabad is not justified as such, the Petitioner is not entitled for any relief. Reference is answered accordingly.

Award passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant transcribed by her corrected by me on this the 30th day of January, 2012.

VED PRAKASH, GAUR, Presiding Officer

Appendix of evidence

**Witnesses examined
for the Petitioner**

WW1: Sri F.M. Patel

**Witnesses examined for the
Respondent**

MW1: Sri R. Jaihind Babu

Documents marked for the Petitioner

Ex.W1:

Copy of ESI Card

Ex.W2:

Copy of PF slip for the year 2001-02

Documents marked for the Respondent

Ex.M1:

Copy of representation of Petitioner

Ex.M2:

Authorization by management
dt.13-4-20

Ex.M3:

Service contract agreement with
Sri G. Mohan Reddy by R1
dt.19-1991

Ex.M4:

Copy of letter renewing the service
contract dt. 16-9-92 from 1-9-92 to
31-8-93

Ex.M5:

Office copy of letter renewing the
service contract dt. 2-8-93 from
1-9-93 to 31-8-94

Ex.M6:

Office copy of letter renewing the
service contract dt. 6-9-94 from
1-9-94 to 31-8-95

Ex.M7:

Office copy of letter renewing the
service contract dt. 8-10-95 from
1-9-95 to 31-8-1996

Ex.M8:

Office copy of letter renewing the
service contract dt. 4-9-96 from
1-9-96 to 31-8-1997

Ex.M9:

Office copy of letter renewing the
service contract dt. 8-9-97 from
1-9-97 to 31-8-98

Ex.M10:

Office copy of letter renewing the
service contract dt. 8-9-98 from
1-9-98 to 31-8-99

Ex.M11:

Office copy of letter renewing the
service contract dt. 9-9-99 from
1-9-99 to 31-8-2000

Ex.M12:

Office copy of letter renewing the
service contract dt. 24-8-2001 from
1-9-2001 to 31-8-2002

Ex.M13:

Office copy of letter terminating the
service contract dt. 25-3-03 w.e.f
1-4-2003

Ex.M14:

Original Memorandum of Settlement
& Rules & Regulations

Ex.M15:

Copy of resolution dt. 31-3-1970

Ex.M16:

Copy of security contract agreement
dt. 22-4-2003

Ex.M17:

Copy of Payment register - of wages

Ex.M18:

Copy of ESI statement

Ex.M19:

Copy of Statement of Employees
Pension Scheme

Ex.M20:

Office copy of lr. No.Citd/Estb/
CL2004/953 & 954 dt. 29-5-04 to
ALC(C) by management

Ex.M21:

Office copy of lr. No.Citd/Estb/CL/
2004/1123 & 1124 dt. 5-6-04 to
ALC(C) by management

नई दिल्ली, 12 मार्च, 2012

का.आ. 1252.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी.आई.टी.डी. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण हैदराबाद के पंचाट (संदर्भ संख्या 142/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-3-2012 को प्राप्त हुआ था।

[सं. एल-42012/256/2003-आईआर (सीएम-II)]

डी. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 12th March, 2012

S.O. 1052.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No.142/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the industrial dispute between the management of Central Institute of Tools Design, CITD and their workmen, received by the Central Government on 12-3-2012.

[No. L-42012/256/2003-IR (CM-II)]

D. S. S. SRINIVASA RAO, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

PRESENT : Shri VED PRAKASH GAUR, Presiding Officer

Dated the 30th day of January, 2012

INDUSTRIAL DISPUTE No. 142/2004

Between:

Sri M. Muthyalu,

S/o. Mallaiah,

H.No.6-7-122, Raju Colony,

Balanagar, Hyderabad.

...Petitioner

AND

1. Principal Director,

Central Institute of Tools Design (CITD),
Balanagar, Hyderabad.

2. Sri Mohan Reddy,

Contractor, CITD,

Hyderabad.

....Respondents

APPEARANCES:

For the Petitioner : M/s. K. Ravinder Goud & Y. Ranjeeth Reedy, Advocates

For the Respondent : M/s. C. Niranjan Rao, M. Subrahmanyam Sastry & L Chandra Mohan Reddy, Advocates for RI

M/s. K. P. Jagan Reddy, K. Jyothi & C. Rajeswara Reddy, Advocate for R2

AWARD

This reference is received from the Government of India, Ministry of Labour by its order No.L-42012/256/2003-IR(CM-II) dated 2-8-2004 under Section 10(1)(d) of the I.D. Act, 1947 to adjudicate the dispute between Sri M. Muthyalu and the management of Central Institute of Tools Design, Balanagar, Hyderabad. The term of reference is as under;

SCHEDULE

"Whether the contract awarded by the management of Central Institute of Tools Design, Balanagar, Hyderabad to M/s Mohan Reddy is sham or not? If so, the demand of Sri M. Muthyalu for reinstatement in the establishment of Central Institute of Tools Design, Balanagar, Hyderabad is justified? If so, to what relief the workman is entitled to?"

The reference was registered in this Tribunal, numbered in this Tribunal as I.D. No. 142/2004 and notices were issued to the parties.

2. Sri M. Muthyalu has filed his claim statement alleging therein that he joined as security guard on 1-2-1991 in Respondent's organization. He was appointed by Respondent contractor, who was appointed as contractor by Respondent No.1, Petitioner continued to work upto 31-3-2003. When he asked for the minimum wages, his services along with other workers were terminated from 1-4-2003 which is contrary to the Industrial Disputes Act, 1947. The Petitioner raised labour dispute before Assistant Labour Commissioner(C) and the conciliation proceeding ended in failure, the matter was referred to the Ministry of Labour and Employment and who has referred this dispute to this Tribunal.

3. Petitioner has alleged that the nature of work done by him is of perennial and continuous nature and Petitioner was entitled for regularization. His services were liable to be regularized but his services were discontinued against the provisions of Industrial Disputes Act, 1947, other workers were engaged by the Respondent management. There was no contract between first and second Respondent every time, this prove that Petitioner was directly employed by first Respondent and first Respondent provided ESI and PF benefit to the Petitioner. The first Respondent changed service conditions and Petitioner was shown as contract Labour.... Petitioner has worked for about 13 years, the alleged contract between first Respondent and second Respondent is of sham character and is smokescreen between the Respondent Nos.1 and 2. The Petitioner filed Provident Fund and Gratuity cases which were decided in his favour against which appeal has been filed by the first Respondent which is pending before Appellate Authority, as such, the action of management

be declared to be illegal and contract between 1st Respondent and 2nd Respondent be declared as sham and smoky.

4. Respondent has filed counter statement alleging therein that Respondent No.1 is an autonomous body registered under Societies Registration Act having their office within the territory of A.P.. The institute have engaged certain workmen through contractor Mr. G. Mohan Reddy for providing security and house keeping services. After the expiry of the contract between Mr. G. Mohan Reddy and the Respondent No.1, a fresh contract was entered into with the new contractor w.e.f. 1-4-2003. It is alleged that Respondent No.1 issued advertisement inviting tender for engagement of the labour contractor Mr. G. Mohan Reddy earlier contractor was unsuccessful bidder and contract was awarded to M/s. Private Eye Security Services, Hyderabad. The workers of first contractor Mr. G. Mohan Reddy approached Assistant Labour Commissioner(C) for their continuation in the service through the new contractor which they could not succeed. The matter was referred to the government. Second Respondent has entered into contract with first Respondent on 1-9-1991 to provide house keeping and security services who provided ESI and PF benefits to all the contract labourers and to pay minimum wages. Petitioner of this case is neither a worker of first Respondent nor he is entitled to be reinstated by 1st Respondent. The first Respondent is an institute under Small Scale Development Industrial Organization with an objective of providing training to the Electrical Personnel in designing and tool making, dies and moulds etc.. Government of India has no control over this organization, vide order dated 31-3-1970 the Government of India has no control over the first Respondent. Government of India has no jurisdiction to refer the matter to this Tribunal, the reference is void ab initio. The State of Andhra Pradesh is the appropriate government in the present matter. This objection was raised before the Assistant Labour Commissioner(C) who has not considered this objection nor referred this objection to the Ministry. The Respondent No.1 has entered into contract for providing work force with M/s. Private Eye Securities Services who has not been impleaded as party. Petitioner wanted to secure a job under the Private Eye Security Services, as contract between 1st Respondent and G. Mohan Reddy ceases to exist. The earlier contract with G. Mohan Reddy was valid and bonafide contract, it was neither sham nor smoky. The case law relied by the Petitioner has no relevance with the present case. The Petitioner has worked as contract labour and he was engaged by the contractor. There is no direct relationship of master and servant between the Petitioner and the first Respondent. Hence, petition deserves to be dismissed.

5. Parties were directed to produce their evidence Petitioner Sri M. Muthyalu has filed his affidavit as examination in chief and produced himself for cross examination. He has marked 4 documents Ex.W1 to W4 in evidence.

6. Respondent has filed affidavit of Sri R. Jai Hind Babu, Assistant Director of the Institute who has marked 21 documents Ex.M1 to M23 and has presented himself for cross examination.

7. I have heard counsels for both the parties and have perused the pleadings and evidence of the parties.

8. It has been argued by Learned Counsel for the Petitioner that the management has entered into a sham contract with Sri G. Mohan Reddy for providing labour force to a perennial and continuous nature job. The Petitioner after working for more than 13 years was shown as contract labour and some other workers also have worked for more than nine years. Sri G. Mohan Reddy used to provide labour to first Respondent. This way the contract between Sri G. Mohan Reddy and first Respondent was sham and smoky contract with a view to deprive the legally desirable candidate from seeking a regular employment and regular absorption in the service. The employees were directly employed by the management as such, in view of the case law reported in (2003) 6 SCC page 528 in the matter of Bharat Heavy Electricals Ltd Vs. State of U.P. and others, wherein it is held that, "since there was sham and shadowy contract there was direct relationship of employer and employee between the Petitioner and the Respondent," the contract between first Respondent and second Respondent is sham and shadowy. It has further been argued by Learned Counsel for the Petitioner that perennial nature job was available in the Respondent's organization in that case, work taken from contract labour is illegal and such contract labour should be deemed to be legally appointed by Respondent No.1. He has further argued that in the matter of payment of gratuity the Controller of Gratuities has allowed application of the Petitioner for payment of the Gratuity that order is binding on both the parties. The Controller of the Gratuity has opined that the Petitioner is an employee of CITD, this finding of the Controller of Gratuity was neither set aside nor quashed by any competent authority as such, this Tribunal has to follow the finding of Controller of Gratuity and thus, it is clear and fully proved that Petitioner is an employee of CITD, he was illegally employed through a sham contract, therefore the termination or disengagement of the services of the Petitioner is violative of industrial law.

9. Against the above argument of Learned Counsel for Petitioner, Learned Counsel for the Respondent has argued that the Respondent has already raised an objection that the Respondent is not an organization of Central Government or an organization funded or controlled by the Central Government as such, the Central Government is not an appropriate authority in the present case. The first Respondent is a registered society under Societies Registration Act and it is being controlled and governed by said laws as such, the State Government is the competent authority in the present case. The reference made by Government of India is void ab initio and this Tribunal

should not act upon the reference made by the Government of India. The Learned Counsel for the Respondent has further argued that so far as the order of Controller of Gratuity is concerned his order has been challenged by way of appeal before the Appellate Authority which is pending there as such, it can not be said that the order passed by Controller of Provident Fund has become final or the finding arrived at by the Controller of Gratuity is binding on this Tribunal. He has further argued that the Petitioner himself resigned from the service of the contractor. He has argued that the Petitioner has voluntarily resigned from the post of contract labour from organization of G. Mohan Reddy, after his resignation from the services of G. Mohan Reddy, he has taken back his Provident Fund amount since the contract with G. Mohan Reddy was not renewed by first Respondent. G. Mohan Reddy himself was instrumental in moving this petition because G. Mohan Reddy has also joined the Petitioner of this case who engaged Sri K. P. Jagan Reddy and other Advocates in this case. Not only that the Petitioner in his cross examination has admitted that a contract with M/s. Private Eye Security Services was entered into between first Respondent and M/s. Private Eye Security Services. He has further admitted that they have applied for refund of Gratuity amount. In cross examination MWI has admitted that it is not correct that labour contract with G. Mohan Reddy was sham and smoky. He has admitted that the contract with G. Mohan Reddy was terminated on 25-3-2003. From the year 1989 to 1991 some workmen were engaged as daily wagers by CITD and from 1991 to 2003 they worked through contractor G. Mohan Reddy. This prove that the claim of the Petitioner that they have worked from 1991 to 2003 under CITD as their employees is not correct. From the own statement of the Petitioner it is proved that earlier Petitioner was engaged by contractor Sri G. Mohan Reddy under whom he worked upto 2003. There after the contract ceased to exist and another contract was entered between M/s. Private Eye Security Services and Respondent No. 1 who did not engage the Petitioner and other workmen, as such, the Petitioner's claim for absorption or regularization in service by CITD is devoid of any merit.

10. On the basis of the arguments advanced by Learned Counsels for the parties, this Tribunal has to consider the following points :—

- (I) Whether the contract awarded by the management of CITD to Sri G. Mohan Reddy is sham or not?
- (II) Whether the demand of Sri M. Muthyalu for reinstatement in the establishment of CITD is justified?
- (III) To what relief if any the workman is entitled?

11. Point No.(I): Petitioner has alleged in his claim statement that management engaged some workers through contractor namely Sri G. Mohan Reddy for providing security and house keeping services. It is further alleged that after expiry of said contract of Sri G. Mohan Reddy a fresh

contract was entered into with new contractor w.e.f. 1-4-2003. It has further been alleged that after expiry of contract with Sri G. Mohan Reddy, Respondent management issued an advertisement and followed procedure for engaging contract labour, in which the earlier contractor was unsuccessful bidder in the said procedure as such, the contract was awarded to M/s. Private Eye Security Services as they were the lowest bidder. In view of the fact that new contract came into existence with another contractor the Petitioner approached Assistant Labour Commissioner(C) for his continuation in service through the new contractor. The Petitioner has alleged that he joined as security guard in first Respondent organization and second Respondent who is a contractor appointed him in first Respondent's organization and the contractor provided ESI and PF to Petitioner. The Petitioner worked in that capacity upto 31-3-2003. When Petitioner asked for minimum wages the first Respondent terminated his services from 1-4-2003 onwards. The Petitioner approached conciliation officer who entered into conciliation proceedings which resulted in failure. The Petitioner contended that the nature of work performed by the Petitioner is perennial in nature and continuous as such, the Petitioner is entitled for regularization. When Petitioner asked for minimum wages, his services were terminated and after termination of Petitioner and other workers' some other workers were engaged through M/s. Private Eye Security Services by first Respondent management. Petitioner was directly employed by Respondent management and Respondent management provided ESI and PF benefits. The management has changed the service condition showing the Petitioner as contract labour. Thus, the alleged contract with Sri G. Mohan Reddy is a sham and shadowy contract. The second Respondent is smoke skilled employer to the Petitioner.

12. The management has denied above allegation and has alleged that the management is autonomous body and for its security and house keeping services institute engaged contractor namely Sri G. Mohan Reddy, Respondent No. 2, to provide security and house keeping service to the institute whose contract expired and a fresh contract was entered into with another contractor from 1-4-2003. Sri G. Mohan Reddy could not succeed to secure second time contract. The new contractor M/s. Private Eye Security Services was lowest bidder and he was offered the contract. He did not engage the Petitioner under his control. Petitioner approached Assistant Labour Commissioner(C), who started conciliation proceeding which resulted in failure and the matter was referred to Central Government. Petitioner was under the direct control of Respondent No. 2 who was a contractor who agreed to provide ESI and PF benefits to contract labours and minimum wages to them. It is incorrect to say that Petitioner was directly employed by the management and Sri G. Mohan Reddy was a screen between management and the

Petitioner. It is alleged that the contract with Sri G. Mohan Reddy was a genuine and valid contract for providing house keeping and security services to the management whose contract lasted upto 31-3-2003. A fresh contract was entered into between M/s. Private Eye Security Services and first Respondent. It is not correct to suggest that the contract entered into between Sri G. Mohan Reddy and first Respondent was sham and shadowy.

13. Sri G. Mohan Reddy has not filed any reply in this case. Though, there is allegation of Petitioner and counter allegation from the side of the management. The claim of Petitioner is that there was no contract between Sri G. Mohan Reddy and management whereas management alleges that there was contract and has filed documents Ex. M1 to M23 to prove that the contract was entered into between the management of CITD and Sri G. Mohan Reddy on 1-9-1991 for providing work force to the management. Copy of contract document, application of Sri G. Mohan Reddy and information to Sri G. Mohan Reddy in the form of Ex.M6, M7, M8, M9, M10, M11, M12, M13 and M14 are on the record, which have been proved by witness for the management. Apart from the documentary evidence there is statement of the Petitioner on oath along with documentary evidence Ex.W1 to W4 to show that the Petitioner has worked in the CITD but the documents of the Petitioner show that the Petitioner was shown as contract labour in their PF scheme papers and Sri G. Mohan Reddy has been shown as their contractor. This paper has been filed by the Petitioner himself and the Petitioner has filed his affidavit as examination-in-chief where it has been stated that there was no contract between Sri G. Mohan Reddy and Respondent. He has further stated that he has made representation before Assistant Labour Commissioner (C) for employment under new contractor. Petitioner has accepted that Ex. M1 bears his signature. Petitioner admitted that he has withdrawn his PF amount. This material fact has been proved by the management witness Sri J. Jaihind Babu, who stated that the Petitioner was contract labour of Sri G. Mohan Reddy, said Sri G. Mohan Reddy has entered into a contract with management to provide security and house keeping jobs to the management, contract agreement was entered into on 1-9-1991 which is on the record.

14. There is evidence that M/s. Private Eye Security Services Ltd., entered into a contract who did not engage the Petitioner as labour. Petitioner made application to the Assistant Labour Commissioner (C) to provide job under second contractor who did not employ him as such, the Petitioner approached this Tribunal. Respondent's documents Ex. M1 to M23 clearly prove that a contract agreement was entered into between the management and Sri G. Mohan Reddy as back as in the year 1991 and renewed again from 1991 to 2003 every year and the Petitioner was engaged by Sri G. Mohan Reddy. There is no iota of evidence to prove that the Petitioner was engaged directly by the

management. Not only that the Petitioner approached Assistant Labour Commissioner(C) for his employment under the second contractor M/s. Private Eye Security Services. This prove that the Petitioner was simply contract labourer. Contractor Sri G. Mohan Reddy has filed his vakalath in this case from Petitioner side but he has not filed petition stating that he was not contractor in CITD. Besides this, there are letters of renewal of contract Ex.M6 to M14 which prove that contract of Sri G. Mohan Reddy was renewed from time to time. This prove that Sri G. Mohan Reddy was a contractor and Petitioner was employed by Sri G. Mohan Reddy for security and house keeping jobs of the CITD.

15. It has been argued by the Learned Counsel for the Petitioner that CITD is the real employer of the Petitioner because Commissioner of Gratuity has held in the matter of these Petitioners that the Petitioners are employees of CITD and directed the management of CITD to pay the gratuity. His order has been challenged by the management before the Appellate Authority and the matter is pending before the Appellate Authority. Thus, the matter is finally settled by the competent authority that the Petitioner of this case is employee of the CITD management hence, this Tribunal has no other option but to uphold the finding of the Payment of Gratuity Authority. Against this argument of the Learned Counsel for the Petitioner, the counsel for the management has argued that the order of the Payment of Gratuity Commissioner or Controlling Authority is not final, said order has been challenged by the management before Appellate Authority and the appeal is pending before the Appellate Authority as such, it can not be said that the order of the Gratuity Authority has become final and binding on this Tribunal. I have considered this aspect of the case. Since the order of the Payment of Gratuity Authority has been challenged by management in appeal which is pending before the Appellate Authority, the matter is les pendency, i.e. pending for adjudication before the competent authority as such, this Tribunal is not bound by the finding of the Controlling Authority and Director of Payment of Gratuity.

16. More over, Respondent management has filed xerox copy of the statement from Employees State Insurance Corporation where Sri G. Mohan Reddy, a labour contractor is said to be the Principal employer who has deposited contribution towards the Provident Fund for Petitioner of this case in the year 2001-2002, a detailed statement of the same has been filed as Ex. M20. There is another document filed by the Respondents Ex.M19 which is the xerox copy of the extract from the payment of wages register. The payment has been made by Sri G. Mohan Reddy to all the Petitioners, this shows that the payment to the Petitioner was not made directly by the management of CITD but it was paid by Sri G. Mohan Reddy, the contractor. Thus, the test of relationship of employer and employee as laid down by the Hon'ble Supreme Court does not qualify in the present case. It is proved that Petitioner was employed by

Sri G. Mohan Reddy who was a contractor, he made payment of the wages to the Petitioner. He deducted his PF and deposited the same with the competent authority as such, the contract between Sri G. Mohan Reddy and management is proved to be genuine and valid in this case. The Petitioner has not been able to prove that the contract of Sri G. Mohan Reddy was sham and shadowy, as such, this Tribunal has come to the conclusion that the contract between the management of CITD and Sri G. Mohan Reddy is not a sham and shadowy contract. Point No.(I) is decided accordingly.

17. Point No. (II) : This Tribunal has to consider whether the demand of the Petitioner for reinstatement in the establishment is justified or not. It has been argued by the Learned Counsel for the Petitioner that Petitioner was employed by the CITD management and CITD management has disengaged the Petitioner without following due process of the law as such, the termination order of the Petitioner is illegal and Petitioner deserves to be reinstated in the service. He has further argued that the management of CITD and Sri G. Mohan Reddy entered into a shadowy contract, Sri G. Mohan Reddy was a shadow of management and principal employer is CITD. The employees were directly employed by the management as such, in view of the case law reported in (2003) 6 see page 528 in the matter of Bharat Heavy Electricals Ltd Vs. State of U.P. and others, wherein it is held that, "since there was sham and shadowy contract there was direct relationship of employer and employee between the Petitioner and the Respondent." Petitioner was an employee of the Respondent No.1 as such, his termination from the service without following the due procedure of the law is illegal.

18. In the present case Petitioner has neither claimed nor adduced any evidence that the CITD management used to maintain attendance register or supervised work of the petitioner through their own employees as such, it can not be said that the Petitioner has fulfilled the test of relationship of master and servant between the Petitioner and the management. The Petitioner has nowhere alleged that the management was maintaining attendance register of the Petitioner or the management's employee was supervising the work of the Petitioner. Respondent's counsel has argued that the Petitioner has not been able to prove test successfully, which is laid down by the Hon'ble Supreme Court. I have considered this aspect of the argument of the Learned Counsel for the parties and has perused the evidence of Petitioner and the claim statement filed by the Petitioner as well. There is no mention of a single word that the maintenance of the attendance register or supervision of the work was directly done by CITD or through its own employee as such, the test laid down by Hon'ble Supreme Court is not fulfilled in the present case.

19. There is evidence on the record to prove that the Petitioner was engaged through Sri G. Mohan Reddy, his PF and ESI subscriptions were deducted and deposited by

Sri G. Mohan Reddy till there was a subsisting contract between Sri G. Mohan Reddy and the CITD management and Petitioner left work after termination of the contract with Sri G. Mohan Reddy. Not only that the Petitioner approached Assistant Labour Commissioner (C) for directing the newly appointed contractor i.e., M/s. Private Eye Security Services to re-employ this Petitioner which he could not prove. It is fully proved that Petitioner was contract labour engaged by Sri G. Mohan Reddy, and his services came to be discontinued upon the expiry of the contract or termination of the contract with Sri G. Mohan Reddy and Petitioner's services cease to exist. The services of the Petitioner were neither terminated nor disengaged by the Respondent No.1 management. The Petitioner's services were simply a contract service which ceased to exist consequent upon termination of contract, as such there is no illegality or irregularity on the part of the Respondent No.1 in disengagement of the Petitioner from the services, the Petitioner is not eligible for reinstatement by the Respondent No.1 as claimed by the Petitioner. The case law cited by Learned Counsel for the Petitioner i.e., BHEL Vs. State of U.P. reported in (2003) 6 SCC page 528 is not applicable in the present case and Petitioner is not entitled for reinstatement. Point No.(II) is decided accordingly.

20. Point No. (III) : The Petitioner has not been able to prove that contract with Sri G. Mohan Reddy was sham or shadowy nor has been able to prove that his services were terminated illegally by the management of CITD. As such, the Petitioner is not entitled for any relief.

21. In the result, this Tribunal has come to the conclusion that, the contract awarded by the management of Central Institute of Tools Design, Balanagar, Hyderabad to M/s G. Mohan Reddy is not sham. The demand of Sri M. Muthyalu for reinstatement in the establishment of Central Institute of Tools Design, Balanagar, Hyderabad is not justified as such, the Petitioner is not entitled for any relief. Reference is answered accordingly.

Award passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant transcribed by her corrected by me on this the 30th day of January, 2012.

VED PRAKASH GAUR, Presiding Officer

Appendix of evidence

Witnesses examined for the WW1: Sri M. Muthyalu

Petitioner

Witnesses examined for the : MW 1: Sri R. Jaihind Babu
Respondent

Documents marked for the Petitioner

Ex. W1 : Copy of ESI Card

Ex. W2 : Copy of PF slip for the year 2001-02

Ex. W 3 : Copy of payment of gratuity notice dt. 23-1-2004

Ex. W 4 : Copy of EPF contribution list

Documents marked for the Respondent

Ex. M 1 : Copy of representation of Petitioner along with other Petitioners for settlement of CPF.

Ex. M 2 : Copy of PF slip for the year 1992-1993

Ex. M 3 : Copy of representation of WWI to ALC (C)

Ex. M 4 : Authorization by management dt. 13-4-2010

Ex. M 5 : Copy of Service contract agreement with Sri G. Mohan Reddy by R1 dt. 1-9-1991

Ex. M 6 : Copy of letter renewing the service contract dt. 16-9-92 from 1-9-92 to 31-8-93

Ex. M 7 : Office copy of letter renewing the service contract dt. 2-8-93 from 1-9-93 to 31-8-94

Ex. M 8 : Office copy of letter renewing the service contract dt. 6-9-94 from 1-9-94 to 31-8-95

Ex. M 9 : Office copy of letter renewing the service contract dt. 8-10-95 from 1-9-95 to 31-8-1996

Ex. M 10 : Office copy of letter renewing the service contract dt. 4-9-96 from 1-9-96 to 31-8-1997

Ex. M 11 : Office copy of letter renewing the service contract dt. 8-9-97 from 1-9-97 to 31-8-98

Ex. M 12 : Office copy of letter renewing the service contract dt. 8-9-98 from 1-9-98 to 31-8-99

Ex. M 13 : Office copy of letter renewing the service contract dt. 9-9-99 from 1-9-99 to 31-8-2000.

Ex. M 14 : Office copy of letter renewing the service contract dt. 24-8-2001 from 1-9-2001 to 31-8-2002

Ex. M 15 : Office copy of letter terminating the service contract dt. 25-3-03 w.e.f. 1-4-2003

Ex. M 16 : Copy of Memorandum of Settlement & Rules & Regulations

Ex. M 17 : Copy of resolution dt. 31-3-1970

Ex. M 18 : Copy of security contract agreement dt. 22-4-2003

Ex. M 19 : Copy of Payment register of wages

Ex. M 20 : Copy of ESI statement

Ex. M 21 : Copy of Statement of Employees Pension Scheme

Ex. M 22 : Office copy of lr. No. Ctd/Easb/CL/2004/953 & 954 dt. 29-5-04 to ALC (C) by management

Ex. M 23 : Office copy of lr. No. Ctd/Estb/CL/2004/1123 & 1124 dt. 5-6-04 to ALC (C) by management.

नई दिल्ली, 12 मार्च, 2012

का.आ. 1253.—औद्योगिक विवाद अधिनियम, 1947 (1947

का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी.आई.टी.डी. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, हैदराबाद के पंचाट (संदर्भ संख्या 135/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-3-2012 को प्राप्त हुआ था।

[सं. एल-42012/248/2003-आईआर (सीएम-II)]

डी. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 12th March, 2012

S.O. 1253.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No.135/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the industrial dispute between the management of Central Institute of Tools Design, CITD, and their workmen, received by the Central Government on 12-3-2012.

[No. L-42012/248/2003-IR (CM-II)]

D.S.S. SRINIVASA RAO, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT
HYDERABAD**

Present: Shri VED PRAKASH GAUR, Presiding Officer

Dated the 30th day of January, 2012

INDUSTRIAL DISPUTE No. 135/2004

Between :

Mohd. Shamsher Ali (Died),

S/o. Mohd. Jaffer Ali

L.R. : Sri Md. Khader Ali

S/o Late Shamseher Ali,

R/o H. No. 8-4-544/101/33,

Sultan Nagar,

Erragadda, Hyderabad.

...Petitioner

AND

1. Principal Director,

Central Institute of Tools Design (CITD),
Hyderabad.

2. Sri Mohan Reddy,

Contractor, CITD,
Hyderabad.

...Respondent

Appearances :

For the Petitioner : M/s. K. Ravinder Goud & Y.
Ranjeeth Reddy, Advocates

For the Respondent : M/s. C. Niranjan Rao, M.
Subrahmanyam Sastry & L
Chandra Mohan Reddy,
Advocates for R1

M/s. K.P. Jagan Reddy,
K. Jyothi & C. Rajeshwar
Reddy, Advocates for R 2

AWARD

This reference is received from the Government of India, Ministry of Labour by its order No. L-42012/248/2003-IR(CM-II) dated 2-8-2004 under Section 10 (l)(d) of the I.D. Act, 1947 to adjudicate the dispute between Sri Shamsher Ali and the management of Central Institute of Tool Design, Balanagar, Hyderabad. The term of reference is as under :

SCHEDULE

"Whether the contract awarded by the management of Central Institute of Tool Design, Balanagar, Hyderabad to M/s Mohan Reddy is sham or not? If so, the demand of Sri Shamsher Ali for reinstatement in the establishment of Central Institute of Tool Design, Balanagar, Hyderabad is justified? If so, to what relief the workman is entitled to?"

The reference was registered in this Tribunal, numbered in this Tribunal as I.D. No. 135/2004 and notices were issued to the parties.

2. Sri Mohd. Shamsher Ali has filed his claim statement alleging therein that he joined as security guard on 1-6-1994 in Respondent's organization. He was appointed by Respondent contractor, who was appointed as contractor by Respondent No.1, Petitioner continued to work upto 31-3-2003. When he asked for the minimum wages, his services along with other workers were terminated from 1-4-2003 which is contrary to the Industrial Disputes Act, 1947. The Petitioner raised labour dispute before Assistant Labour Commissioner(C) and the conciliation proceeding ended in failure, the matter was referred to the Ministry of Labour and Employment and who has referred this dispute to this Tribunal.

3. Petitioner has alleged that the nature of work done by him is of perennial and continuous nature and Petitioner was entitled for regularization. His services were liable to be regularized but his services were discontinued against the provisions of Industrial Disputes Act, 1947, other workers were engaged by the Respondent management. There was no contract between first and second Respondent every time, this prove that Petitioner was directly employed by first Respondent and first Respondent provided ESI and PF benefit to the Petitioner.

The first Respondent changed service conditions and Petitioner was shown as contract labour. Petitioner has worked for about 10 years, the alleged contract between first Respondent and second Respondent is of sham character and is smokescreen between the Respondent No.1 and 2. The Petitioner filed Provident Fund and Gratuity cases which were decided in his favour against which appeal has been filed by the first Respondent which is pending before Appellate Authority, as such, the action of management be declared to be illegal and contract between 1st Respondent and 2nd Respondent be declared as sham and smoky.

4. Respondent has filed counter statement alleging therein that Respondent No.1 is an autonomous body registered under Societies Registration Act having their office within the territory of A.P.. The institute has engaged certain workmen through contractor Mr. G. Mohan Reddy for providing security and house-keeping services. After the expiry of the contract between Mr. G. Mohan Reddy and the Respondent No.1, a fresh contract was entered

into with the new contractor w.e.f. 1-4-2003. It is alleged that Respondent No.1 issued advertisement inviting tender for engagement of the labour contractor. Mr. G. Mohan Reddy earlier contractor was unsuccessful bidder and contract was awarded to M/s. Private Eye Security Services, Hyderabad. The workers of first contractor Mr. G. Mohan Reddy approached Assistant Labour Commissioner(C) for their continuation in the service through the new contractor which they could not succeed. The matter was referred to the government. Second Respondent has entered into contract with first Respondent on 1-9-1991 to provide house keeping and security services and provided ESI and PF benefits to all the contract labourers and to pay minimum wages. Petitioner of this case is neither a worker of first Respondent nor he is entitled to be reinstated by 1st Respondent. The first Respondent is an institute under Small Scale Development Industrial Organization with an objective of providing training to the Electrical Personnel in designing and tool making, dies and moulds etc.. Government of India has no control over this organization, vide order dated 31-3-1970 the Government of India has no control over the first Respondent. Government of India has no jurisdiction to refer the matter to this Tribunal, the reference is void ab initio. The State of Andhra Pradesh is the appropriate government in the present matter. This objection was raised before the Assistant Labour Commissioner(C) who has not considered this objection nor referred this objection to the Ministry. The Respondent No.1 has entered into contract for providing work force with M/s. Private Eye Securities Services who has not been impleaded as party. Petitioner wanted to secure a job under the Private Eye Security Services as contract between 1st Respondent and G. Mohan Reddy ceases to exist. The earlier contract with G. Mohan Reddy was valid and bona fide contract, it was neither sham nor smoky. The case law relied by the Petitioner has no relevance with the present case. The Petitioner has worked as contract labour and he was engaged by the contractor. There is no direct relationship of master and servant between the Petitioner and the first Respondent. Hence, petition deserves to be dismissed.

5. Parties were directed to produce their evidence. Petitioner Sri Mohd. Shamsher Ali has filed his affidavit as examination in chief and produced himself for cross-examination. He has marked 3 documents Ex. W1 to W3 in evidence.

6. Respondent has filed affidavit of Sri R. Jai Hind Babu, Assistant Director of the Institute who has marked 23 documents Ex. M1 to M22 and has presented himself for cross-examination.

7. Learned Counsel for the Petitioner moved memo of substitution stating that Petitioner died in 2008 leaving behind Sri Md. Khader Ali as his only heir and legal representative as such, Md. Khader Ali be substituted in

place of Petitioner and the same was accepted and Mr. Md. Khader Ali has been taken on record as LR. Petitioner filed amended petition as directed by this Tribunal.

8. I have heard counsels for both the parties and have perused the pleadings and evidence of the parties.

9. It has been argued by Learned Counsel for the Petitioner that the management has entered into a sham contract with Sri G. Mohan Reddy for providing labour force to a perennial and continuous job. Workman after working for more than 10 years was shown as contract labour and some other workers also have worked for more than nine years. Sri G. Mohan Reddy used to provide labour to first Respondent. This way the contract between Sri G. Mohan Reddy and first Respondent was sham contract with a view to deprive the legally desirable candidate from seeking a regular employment and regular absorption in the service. The employees were directly employed by the management as such, in view of the case law reported in (2003) 6 SCC page 528 in the matter of Bharat Heavy Electricals Ltd. Vs. State of U.P. and others, it is held that,

"since there was sham and shadowy contract there was direct relationship of employer and employee between the Petitioner and the Respondent," the contract between first Respondent and second Respondent is sham and shadowy.

It has further been argued by Learned Counsel for the Petitioner that perennial nature job was available in the Respondent's organization in that case, work taken from contract labour is illegal and such contract labour should be deemed to be legally appointed by Respondent No.1. He has further argued that in the matter of payment of gratuity the Controller of Gratuity has allowed application of workman for payment of the Gratuity that the order is binding on both the parties, the Controller of the Gratuity has opined that the Petitioner is an employee of CITD. This finding of the Controller of Gratuity was neither set aside nor quashed by any competent authority as such, this Tribunal has to follow the finding of Controller of Gratuity and thus, it is clear and fully proved that workman was an employee of CITD, he was illegally employed through a sham contract, therefore, the termination or disengagement of the services of the workman was violative of industrial law.

10. Against the above argument of Learned Counsel for Petitioner, Learned Counsel for the Respondent has argued that the Respondent has already raised an objection that the Respondent is not an organization of Central Government or an organization funded or controlled by the Central Government as such, the Central Government is not an appropriate authority in the present case. The first Respondent is a registered society under Societies Registration Act and it is being controlled and governed

by said laws as such, the State Government is the competent authority in the present case. The reference made by Government of India is void ab initio and this Tribunal should not act upon the reference made by the Government of India. The Learned Counsel for the Respondent has further argued that so far as the order of Controller of Gratuity is concerned his order has been challenged by way of appeal before the Appellate Authority which is pending there as such, it cannot be said that the order passed by Controller of Provident Fund has become final or the finding arrived at by the Controller of Gratuity is binding on this Tribunal. He has further argued that the workman himself resigned from the service of the contractor. He approached the Chairman of CPF Trust as back as in the year 1998 for payment of his CPF amount on the ground that he has left the organization of G. Mohan Reddy. The management has relied on Ex. M1 a paper filed by workman himself for refund of the CPF amount. This prove that the workman has voluntarily resigned from the post of contract labour from organization of G. Mohan Reddy as back as in the year 1993, after his resignation from the services of G. Mohan Reddy, he has taken back his Provident Fund amount since the contract with G. Mohan Reddy was not renewed by first Respondent. G. Mohan Reddy himself was instrumental in moving this petition because G. Mohan Reddy has also joined the Petitioner of this case who engaged Sri K.P. Jagan Reddy and other Advocates in this case. Not only that the workman in his cross-examination has admitted that a contract with M/s. Private Eye Security Services was entered into between first Respondent and M/s. Private Eye Security Services. He has further admitted that they have applied for refund of Gratuity amount. In cross examination MW1, workman has admitted that it is not correct that labour contract with G. Mohan Reddy was sham and smoky. He has admitted that the contract with G. Mohan Reddy was terminated on 25.3.2003. From the year 1989 to 1991 workman with other workmen was engaged as daily wager by CITD and from 1991 to 2003 they worked through contractor G. Mohan Reddy. This prove that the claim of workman that they have worked from 1991 to 2003 under CITD as their employees is not correct. From the own statement of workman it is proved that earlier he was daily wager later on in the year 1991 he was engaged by contractor Sri G. Mohan Reddy under whom he worked up to 2003. Thereafter the contract ceased to exist and another contract was entered between M/s. Private Eye Security Services and Respondent No.1 who did not engage workman and other workmen, as such, the workman's claim for absorption or regularization of service by CITD is devoid of any merit.

11. On the basis of the arguments advanced by Learned Counsels for the parties, this Tribunal has to consider the following points:—

(I) Whether the contract awarded by the management of CITD to Sri G. Mohan Reddy is sham or not?

(II) Whether the demand of workman Late Mohd. Shamsher Ali for reinstatement in the establishment of CITD is justified? (III) To what relief if any the L.R. of the workman is entitled?

12. Point No. (I) : Workman has alleged in his claim statement that management engaged some workers through contractor namely Sri G. Mohan Reddy for providing security and house keeping services. It is further alleged that after expiry of said contract of Sri G. Mohan Reddy a fresh contract was entered into with new contractor w.e.f. 1-4-2003. It has further been alleged that after expiry of contract with Sri G. Mohan Reddy, Respondent management issued an advertisement and followed procedure for engaging contract labour, in which the earlier contractor was unsuccessful bidder in the said procedure as such, the contract was awarded to M/s. Private Eye Security Services as they were the lowest bidder. In view of the fact that new contract came into existence with another contractor, workman approached Assistant Labour Commissioner(C) for his continuation in service through the new contractor. Workman has alleged that he joined as security guard in first Respondent organization and second Respondent who is a contractor appointed him in first Respondent's organization and the contractor provided ESI and PF to the workman. He worked in that capacity upto 31-3 -2003. When workman asked for minimum wages the first Respondent terminated his services from 1-4-2003 onwards then, he approached conciliation officer who entered into conciliation proceedings which resulted in failure. Workman contended that the nature of work performed by him is perennial in nature and continuous as such, he entitled for regularization.

When workman asked for minimum wages, his services were terminated and after termination of workman and other workers' some other workers were engaged through M/s. Private Eye Security Services by first Respondent management. Workman was directly employed by Respondent management and Respondent management provided ESI and PF benefits. The management has changed the service condition showing the workman as contract labour. Thus, the alleged contract with Sri G. Mohan Reddy is a sham and shadowy contract. The second Respondent is smoke skilled employer to the workman.

13. The management has denied this allegation and has alleged that the management is autonomous body and for its security and house keeping services institute engaged contractor namely Sri G. Mohan Reddy, Respondent No. 2, to provide security and house keeping service to the institute whose contract expired and a fresh contract was entered into with another contractor from 1-4-2003. Sri G. Mohan Reddy could not succeed to secure second contract. The new contractor Mis. Private Eye Security Services was lowest bidder and he was offered the contract.

He did not engage the workman under his control. Workman approached Assistant Labour Commissioner(C), who started conciliation proceeding which resulted in failure and the matter was referred to Central Government. Workman was under the direct control of Respondent No. 2 who was a contractor who agreed to provide ESI and PF benefits to contract labours and minimum wages to them. It is incorrect to say that workman was directly employed by the management and Sri G. Mohan Reddy was a screen between management and the Petitioner. It is alleged that the contract with Sri G. Mohan Reddy was a genuine and valid contract for providing house keeping and security services to the management whose contract lasted upto 31-3 -2003. A fresh contract was entered into between Mis. Private Eye Security Services and first Respondent. It is not correct to suggest that the contract entered into between Sri G. Mohan Reddy and first Respondent was sham and shadowy.

14. Sri G. Mohan Reddy has not filed any reply in this case. Though, there is allegation of workman and counter allegation from the side of the management. The claim of workman is that there was no contract between Sri G. Mohan Reddy and management whereas management alleges that there was contract and has filed documents Ex. M1 to M22 to prove that the contract was entered into between the management of CITD and Sri G. Mohan Reddy on 1-9-1991 for providing work force to the management. Copy of contract document, application of Sri G. Mohan Reddy and information to Sri G. Mohan Reddy in the form of Ex. M4, MS, M6, M7, M8, M9, M10, M12, M13 and M14 are on the record, which have been proved by witness for the management. Apart from the documentary evidence there is statement of the workman on oath along with documentary evidence Ex. W 1 to W 4 to show that the workman has worked in the CITD but the documents of the workman Ex. W2 show that the Petitioner was shown as contract labour in their PF scheme papers and Sri G. Mohan Reddy has been shown as their contractor. This paper has been filed by the workman himself and the workman has filed his affidavit as examination in chief where it has been stated that there was no contract between Sri G. Mohan Reddy and Respondent. In his cross-examination, workman stated that his signatures were obtained at the time of issue of the cheque which is Ex. M2 filed by the Respondent. He has denied that contractor Sri G. Mohan Reddy has paid salary to him since 1999 onwards. He has further stated that he has made representation before Assistant Labour Commissioner(C) for employment under new contractor. However, management has filed application or representation of the workman wherein Mohd. Shamsher Ali has requested to make payment of his Provident Fund which is Ex. M1 available on the record.

Workman has accepted that Ex. M1 bears his signature. It proves that the workman has made request

to the Chairman, CPF Trust for settlement of his PF dues wherein he has written that he has left duty on his own accord and he want to settle his dues. This material fact has been proved by the management witness Sri J. Jaihind Babu, who stated that the workman was contract labour of Sri G. Mohan Reddy, said Sri G. Mohan Reddy has entered into a contract with management to provide security and house keeping jobs to the management, contract agreement was entered into on 1-9-1991 which is on the record.

15. There is evidence that M/s. Private Eye Security Services Ltd., entered into a contract who did not engage the Petitioner as labour. Workman made application to the Assistant Labour Commissioner(C) to provide job under second contractor who did not employ him as such, the workman approached this Tribunal. Respondent's documents Ex.M1 to M23 clearly prove that a contract agreement was entered into between the management and Sri G. Mohan Reddy as back as in the year 1991 and renewed again from 1991 to 2003 every year and the workman was engaged by Sri G. Mohan Reddy. There is no iota of evidence to prove that the workman was engaged directly by the management. Not only that the workman approached Assistant Labour Commissioner(C) for his employment under the second contractor M/s. Private Eye Security Services. This prove that the workman was simply contract labourer. Contractor Sri G. Mohan Reddy has filed his vakalath in this case from workman side but he has not filed petition stating that he was not contractor in CITD. Besides this, there are letters of renewal of contract Ex. M4 to M13 which prove that contract of Sri G. Mohan Reddy was renewed from time to time. This prove that Sri G. Mohan Reddy was a contractor and workman was employed by Sri G. Mohan Reddy for security and house keeping jobs of the CITD.

16. It has been argued by the Learned Counsel for the workman that CITD is the real employer of the workman because Commission of Gratuity has held in the matter of these Petitioners that the Petitioners are employees of CITD and directed the management of CITD to pay the gratuity. His order has been challenged by the management before the Appellate Authority and the matter is pending before the Appellate Authority. Thus, the matter is finally settled by the competent authority that the workman of this case was employee of the CITD management hence, this Tribunal has no other option but to uphold the finding of the Payment of Gratuity Authority. Against this argument of the Learned Counsel for the workman, the counsel for the management has argued that the order of the Payment of Gratuity Commissioner or Controlling Authority is not final, said order has been challenged by the management before Appellate Authority and the appeal is pending before the Appellate Authority as such, it can not be said that the order of the Gratuity Authority has become final and binding on this Tribunal. I have considered this aspect of the case. Since the order of the Payment of Gratuity

Authority has been challenged by management in appeal which is pending before the Appellate Authority, the matter is les pendence, i.e., pending for adjudication before the competent authority as such, this Tribunal is not bound by the finding of the Controlling Authority and Director of Payment of Gratuity.

17. Moreover, Respondent management has filed xerox copy of the statement from Employees State Insurance Corporation where Sri G. Mohan Reddy, a labour contractor is said to be the Principal employer who has deposited contribution towards the Provident Fund for workman of this case in the years 2002, 2003, a detailed statement of the same has been filed as Ex. M19. There is another document filed by the Respondents Ex.M 18 which is the xerox copy of the extract from the payment of wages register. The payment has been made by Sri G. Mohan Reddy to all the workmen, this shows that the payment to the workman was not made directly by the management of CITD but it was paid by Sri G. Mohan Reddy, the contractor. Thus, the test of relationship of employer and employee as laid down by the Hon'ble Supreme Court does not qualify in the present case. It is proved that workman was employed by Sri G. Mohan Reddy who was a contractor, he made payment of the wages to the Petitioner. He deducted his PF and deposited the same with the competent authority as such, the contract between Sri G. Mohan Reddy and management is proved to be genuine and valid in this case. The workman has not been able to prove that the contract of Sri G. Mohan Reddy was sham and shadowy, as such, this Tribunal has come to the conclusion that the contract between the management of CITD and Sri G. Mohan Reddy is not a sham and shadowy contract. Point No.(I) is decided accordingly.

18. Point No. (II) : This Tribunal has to consider whether the demand of the workman for reinstatement in the establishment is justified or not. It has been argued by the Learned Counsel for the workman that workman was employed by the CITD management and CITD management has disengaged the workman without following due process of the law as such, the termination order of the workman is illegal and workman deserves to be reinstated in the service. He has further argued that the management of CITD and Sri G. Mohan Reddy entered into a shadowy contract, Sri G. Mohan Reddy was a shadowy between management and employees as principal employer. The employees were directly employed by the management as such, in view of the case law reported in (2003) 6 SCC page 528 in the matter of Bharat Heavy Electricals Ltd. Vs. State of U.P. and others, wherein it is held that, "since there was sham and shadowy contract there was direct relationship of employer and employee between the Petitioner and the Respondent" Workman was an employee of the Respondent No. 1 as such, his termination from the service without following the due procedure of the law is illegal.

19. In the present case workman has neither claimed nor adduced any evidence that the CITD management used to maintain attendance register or the management Respondent used to supervise work of the workman through their own employees as such, it can not be said that the workman has fulfilled the test of relationship of master and servant between the workman and the management. The workman has no where alleged that the management was maintaining attendance register of the workman or the management's employee was supervising the work of the workman. Respondent's counsel has argued that the workman has not been able qualify the test successfully, as laid down by the Hon'ble Supreme Court. I have considered this aspect of the argument of the Learned Counsel for the parties and has perused the evidence of workman and the claim statement filed by the workman as well. There is no mention of a single word that the maintenance of the attendance register or supervision of the work was directly done by CITD or through its own employee as such, the test laid down by Hon'ble Supreme Court is not fulfilled in the present case.

20. There is evidence on the record to prove that the workman was engaged through Sri G. Mohan Reddy, his PF and ESI subscriptions were deducted and deposited by Sri G. Mohan Reddy till there was a subsisting contract between Sri G. Mohan Reddy and the CITD management and workman left work after termination of the contract with Sri G. Mohan Reddy. Not only that the workman approached Assistant Labour Commissioner(C) for directing the newly appointed contractor i.e., M/s. Private Eye Security Services to re-employ this workman which he could not prove. It is fully proved that workman was contract labour engaged by Sri G. Mohan Reddy, and his services came to be discontinued upon the expiry of the contract or termination of the contract with Sri G. Mohan Reddy and workman's services ceased to exist. The services of the workman were neither terminated nor disengaged by the Respondent No.1 management. The workman's services were simply a contract service which ceased to exist consequent upon termination of contract, as such there is no illegality or irregularity on the part of the Respondent No.1 in disengagement of the workman from the services, the workman is not entitled for reinstatement by the Respondent No.1 as claimed by the workman. The case law cited by Learned Counsel for the workman i.e., BHEL Vs. State of U.P. reported in (2003) 6 SCC page 528 is not applicable in the present case and Petitioner/workman is not entitled for reinstatement. Point No. (II) is decided accordingly.

21. **Point No. (III) :** The workman has not been able to prove that contract with Sri G. Mohan Reddy was sham or shadowy nor has been able to prove that his services were terminated illegally by the management of CITD. As such, the workman is not entitled for any relief. Point No. (III) is decided accordingly.

22. In the result, this Tribunal has come to the conclusion that, the contract awarded by the management of Central Institute of Tool Design, Balanagar, Hyderabad to M/s. G. Mohan Reddy was not sham or shadowy. The demand of Late Mohd. Shamsher Ali for reinstatement in the establishment of Central Institute of Tool Design, Balanagar, Hyderabad is not justified as such, the workman is not entitled for any relief. Reference is answered accordingly.

Award passed accordingly Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant transcribed by her corrected by me on this the 30th day of January, 2012.

VED PRAKASH GAUR, Presiding officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1 : Sri Mohd. Shamsher Ali	MW 1 : Sr. R. Jaihind Babu

Documents marked for the Petitioner

- Ex. W1 : Copy of ESI Card
- Ex. W2 : Copy of PF slip for the year 2001-02
- Ex. W3 : Copy of EPF contribution list

Documents marked for the Respondent

- Ex.M1: Application for withdrawal of PF dt. 14-7-92 by WW 1
- Ex.M2: Certificate dt 8-6-92 showing WW 1 as watchman casual
- Ex.M3: Authorization by management dt. 13-4-2010
- Ex.M4: Service contract agreement with Sri G. Mohan Reddy by R1 dt. 1-9-1991
- Ex.M5: Copy of letter renewing the Service contract dt. 16-9-1992 from 1-9-92 to 31-8-93
- Ex.M6: Office copy of letter renewing the service contract dt. 2-8-93 from 1-9-93 to 31-8-94
- Ex. M7 : Office copy of letter renewing the service contract dt 6-9-94 from 1-9-94 to 31-8-95
- Ex.M8: Office copy of letter renewing the service contract dt. 8-10-95 from 1-9-95 to 31-8-1996
- Ex. M9 : Office copy of letter renewing the service contract dt. 4-9-96 from 1-9-96 to 31-8-1997
- Ex.M10: Office copy of letter renewing the service contract dt. 8-9-97 from 1-9-97 to 31-8-98
- Ex.M11: Office copy of letter renewing the service contract dt. 8-9-98 from 1-9-98 to 31-8-99

Ex.M12 : Office copy of letter renewing the service contract dt. 9-9-99 from 1-9-99 to 31-8-2000

Ex.M13 : Officer copy of letter renewing the service contract dt. 24-8-2001 from 1-9-2001 31-8-2000.

Ex.M14 : Officer copy of letter terminating the service contract dt. 25-3-03 w.e.f. 1-4-2003

Ex.M15 : Copy of Memorandum of Settlement & Rules & Regulations

Ex.M16 : Copy of resolution dt. 31-3-1970

Ex.M17 : Copy of security contract agreement dt. 22-4-2003

Ex.M18 : Copy of Payment register—of wages

Ex.M19 : Copy of ESI statement

Ex.M20 : Copy statement of Employees Pension Scheme

Ex.M21 : Office copy of lr. No.Citd/Estd/CL 2004/953 & 954 dt. 29-5-04 to ALC (C) by Management

Ex.M22 : Office copy of lr. No.Citd/Estd/CL/2004/1123 & 1124 dt. 5-6-04 to ALC (C) by management.

नई दिल्ली, 12 मार्च, 2012

का.आ. 1254.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी. आई.टी.डी. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण हैदराबाद के पंचाट (संदर्भ संख्या 133/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-03-2012 को प्राप्त हुआ था।

[फा. सं. एल-42012/246/2003-आईआर (सीएम-II)]

डी. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 12th March, 2012

S.O. 1254.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No.133/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the industrial dispute between the management of Central Institute of Tools Design, CITD, and their workmen, received by the Central Government on 12-03-2012.

[F. No. L-42012/246/2003-IR (CM-II)]

D.S.S. SRINIVASA RAO, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

PRESENT : Shri VED PRAKASH GAUR, Presiding Officer

Dated the 30th day of January, 2012

INDUSTRIAL DISPUTE No. 133/2004

BETWEEN:

Smt. G. Kistamma,
W/o Sankaraiah,
R/o H.No. 8-4-370/375, Rajnagar,
Borabanda, Hyderabad.

....Petitioner

AND

1. Principal Director,
Central Institute of Tools Design (CITD),
Hyderabad.
2. Sri Mohan Reddy,
Contractor, CITD, .
Hyderabad.

....Respondents

APPEARANCES:

For the Petitioner:	M/s. K. Ravinder Goud and Y. Ranjeeth Reedy, Advocates
For the Respondent:	M/s. C. Niranjan Rao, M. Subrahmanyam Sastry & L Chandra Mohan Reddy, Advocates for R1
	M/s. K. Jagan Reddy, N Vijender Reddy & A. Balkishan Rao, Advocates for R2

AWARD

This reference is received from the Government of India, Ministry of Labour by its order No.L-42012/246/2003-IR(CM-II) dated 2-8-2004 under Section 10(1)(d) of the I.D. Act, 1947 to adjudicate the dispute between Smt. G. Kistamma and the management of Central Institute of Tool Design, Balanagar, Hyderabad. The term of reference is as under:

SCHEDULE

"Whether the contract awarded by the management of Central Institute of Tools Design, Balanagar, Hyderabad to M/s. Mohan Reddy is sham or not? If so, the demand of Smt. Kistamma for reinstatement in the establishment of Central Institute of Tool Design, Balanagar, Hyderabad is justified? If so, to what relief the workman is entitled to?"

The reference was registered in this Tribunal, numbered in this Tribunal as I.D.No. 133/2004 and notices were issued to the parties.

2. Smt. Kistamma has filed her claim statement alleging therein that she joined as canteen cook on 1-3-1986 in Respondent's organization. She was appointed by Respondent contractor, who was appointed as contractor by first Respondent. The Petitioner continued to work upto 31-3-2003. When she asked for the minimum wages, her services along with other workers were terminated from 1-4-2003 which is contrary to the Industrial Disputes Act, 1947. The Petitioner raised labour dispute before Assistant Labour Commissioner (C) and the conciliation proceeding ended in failure and the matter was

referred to the Ministry of Labour and Employment and who has referred this dispute to this Tribunal.

3. Petitioner has alleged that the nature of work done by her is of perennial and continuous nature and Petitioner was entitled for regularization. Her services were liable to be regularized but her services were discontinued against the provisions of Industrial Disputes Act, 1947 and other workers were engaged by the Respondent management. There was no contract between first and second Respondent every time this prove that Petitioner was directly employed by first Respondent and first Respondent provided ESI and PF benefit to the Petitioner. The first Respondent changed service conditions and Petitioner was shown as contract labour. However, the Petitioner has worked for above 14 years, the alleged contract between first Respondent and second Respondent is of sham character and is smokescreen between the Respondent No. 1 and 2. The Petitioner filed Provident Fund and Gratuity cases which were decided in their favour against which appeal has been filed by the first Respondent which are pending before Appellate Tribunal, as such, the action of management be declared to be illegal and contract between 1st Respondent and 2nd Respondent be declared as sham and smoky.

4. Respondent has filed counter statement alleging therein that Respondent No. 1 is an autonomous body registered under Societies Registration Act having their office within the territory of A.P. The institute have engaged certain workman through contractor Mr. G. Mohan Reddy for providing security and house keeping services. After the expiry of the contract between Mr. G. Mohan Reddy and the Respondent No. 1, a fresh contract was entered into with the new contractor w.e.f. 1-4-2003. It is alleged that Respondent No. 1 issued advertisement inviting tender for engagement of the labour contractor. Mr. G. Mohan Reddy earlier contractor was unsuccessful bidder and contract was awarded to M/s. Private Eye Security Services, Hyderabad. The workers of first contractor Mr. G. Mohan Reddy approach Assistant Labour Commissioner (C) for their continuation in the service through the new contractor which they could not succeed. The matter was referred to the Government. Second Respondent has entered into contract with first Respondent on 1-9-1991 to provide house keeping and security services and provided ESI and PF benefits to all the contract labourers and to pay minimum wages. Petitioner of this case is neither a worker of first Respondent nor she is entitled to be reinstated by 1st Respondent. The first Respondent is an institute under Small Scale Development Industrial Organization with an objective of providing training to be the Electrical Personnel in designing and tool making, dies and moulds etc. Government of India has no control over this organization, vide order dated 31-3-1970 the Government of India has no control over the first Respondent. Government of India has no jurisdiction to refer the matter to this Tribunal, the

reference is void ab initio. The State of Andhra Pradesh is the appropriate Government in the present matter. This objection was raised before the Assistant Labour Commissioner (C) who has not considered this objection nor referred this objection to the Ministry. The Respondent No. 1 has entered into contract for providing work force with M/s. Private Eye Securities Services who has not been impleaded as party. Petitioner wanted to secure a job under the Private Eye Security Services as contract between 1st Respondent and G. Mohan Reddy ceases to exist. The earlier contract with G. Mohan Reddy was valid and bona fide contract, it was neither sham nor smoky. The case law relied by the Petitioner has no relevance with the present case. The Petitioner has worked as contract labour and she was engaged by the contractor. There is no direct relationship of master and servant between the Petitioner and the first Respondent. Hence, petition deserves to be dismissed.

5. Parties were directed to produce their evidence. Petitioner Smt. G. Kistamma has filed her affidavit in examination and produced herself for cross examination. She has marked 4 documents Ex. W1 to W4 in evidence.

6. Respondent has filed affidavit of Sri R. Jai Hind Babu, Assistant Director of the Institute who has marked 22 documents Ex. M1 to M22 and has presented himself for cross examination.

7. I have heard counsels for both the parties and have perused the pleadings and evidence of the parties.

8. It has been argued by Learned Counsel for the Petitioner that the management has entered into a sham contract with Sri G. Mohan Reddy for providing labour force to a perennial and continuous job. The Petitioner after working for more than 14 years were shown as contract labour and some other workers also have worked for more than nine years. Sri G. Mohan Reddy used to provide labour to first Respondent. This way the contract between Sri G. Mohan Reddy and first Respondent was sham contract with a view to deprive the legally desirable candidate from seeking a regular employment and regular absorption in the service. The employees were directly employed by the management as such, in view of the case law reported in (2003) 6 SCC page 528 in the matter of Bharat Heavy Electricals Ltd. Vs. State of U.P. and others, it is held that, "since there was sham and shadowy contract there was direct relationship of employer and employee between the Petitioner and the Respondent," the contract between first Respondent and second Respondent is sham and shadowy. It has further been argued by Learned Counsel for the Petitioner that perennial nature job was available in the Respondent's organization in that case, work taken from contract labour is illegal and such contract labour should be deemed to be legally appointed by Respondent No. 1. He has further argued that in the matter of payment of gratuity the Controller of Gratuities has allowed application of the Petitioner for payment of the

Gratuity that the order is binding on both the parties, the Controller of the Gratuity has opined that the Petitioner is an employee of CITD. This finding of the Controller of Gratuity was neither set aside nor quashed by any competent authority as such, this Tribunal has to follow the finding of Controller of Gratuity and thus, it is clear and fully proved that Petitioner is an employee of CITD, she was illegally employed through a sham transaction of the contract, therefore the termination or disengagement of the services of the Petitioner is violative of industrial law.

9. Against the above argument of Learned Counsel for Petitioner, Learned Counsel for the Respondent has argued that the Respondent has already raised an objection that the Respondent is not an organization of Central Government or an organization funded or controlled by the Central Government as such, the Central Government is not an appropriate authority in the present case. The first Respondent is a registered society under Societies Registration Act and it is being controlled and governed by said laws as such, the State Government is the competent authority in the present case. The reference made by Government of India is void ab initio and this Tribunal should not act upon the reference made by the Government of India. The Learned Counsel for the Respondent has further argued that so far as the order of Controller of Gratuity is concerned his order has been challenged by way of appeal before the Appellate Authority which is pending there as such, it can not be said that the order passed by Controller of Provident Fund has become final or the finding arrived at by the Controller of gratuity is binding on this Tribunal. He has further argued that the Petitioner herself resigned from the service of the contractor. She approached the Chairman of CPF Trust as back as in the year 1998 for payment of her CPF amount on the ground that she has left the organization of G. Mohan Reddy. The management has relied on Ex. M1 a paper filed by Petitioner herself for refund of the CPF amount. This prove that the Petitioner has voluntarily resigned from the post of contract labour from organization of G. Mohan Reddy as back as in the year 1993, after her resignation from the services of G. Mohan Reddy, she has taken back her Provident Fund amount since the contract with G. Mohan Reddy was not renewed by first Respondent. G. Mohan Reddy himself was instrumental in moving this petition because G. Mohan Reddy has also joined the Petitioner of this case who engaged Sri K.P. Jagan Reddy and other Advocates in this case. Not only that the Petitioner in her cross-examination has admitted that a contract with M/s. Private Eye Security Services was entered into between first Respondent and M/s. Private Eye Security Services. She has further admitted that they have applied for refund of Gratuity amount. In cross-examination MW1 has admitted that it is not correct that labour contract with G. Mohan Reddy was sham and smoky. He has admitted that the contract with G. Mohan

Reddy was terminated on 25-3-2003. From the year 1989 to 1991 Petitioner and other workmen were engaged as daily wagers by CITD and from 1991 to 2003 they worked through contractor G. Mohan Reddy. This prove that the claim of the Petitioner that they have worked from 1991 to 2003 under CITD as their employees is not correct. From the own statement of the Petitioner it is proved that earlier Petitioner was daily wager later on in the year 1991 she was engaged by contractor Sri G. Mohan Reddy under whom she worked upto 2003. There after the contract ceased to exist and another contract was entered between M/s. Private Eye Security Services and Respondent No.1 who did not engage the Petitioner and other workmen, as such, the Petitioner's claim for absorption or regularization of service by CITD is devoid of any merit.

10. On the basis of the arguments advanced by Learned Counsels for the parties, this Tribunal has to consider the following points:-

- (I) Whether the contract awarded by the management of CITD to Sri G. Mohan Reddy is sham or not?
- (II) Whether the demand of Smt G. Kistamma for reinstatement in the establishment of CITD is justified?
- (III) To what relief if any the workman is entitled.

11. Point No. (I): Petitioner has alleged in her claim statement that management engaged some workers through contractor namely Sri G. Mohan Reddy for providing security and house keeping services. It is further alleged that after expiry of said contract of Sri G. Mohan Reddy a fresh contract was entered into with new contractor w.e.f. 1-4-2003. It has further been alleged that after expiry of contract with Sri G. Mohan Reddy, Respondent management issued an advertisement and followed procedure for engaging contract labour, in which the earlier contractor was unsuccessful bidder in the said procedure as such, the contract was awarded to M/s. Private Eye Security Services as they were the lowest bidder. In view of the fact that new contract came into existence with another contractor the Petitioner approached Assistant Labour Commissioner(C) for her continuation in service through the new contractor. The Petitioner has alleged that she joined as canteen cook in first Respondent organization and second Respondent who is a contractor appointed her in first Respondent's organization and the contractor provided ESI and PF to Petitioner. The Petitioner worked in that capacity upto 31-3-2003. When Petitioner asked for minimum wages the first Respondent terminated her services from 1-4-2003 onwards. The Petitioner approached conciliation officer who entered into conciliation proceedings which resulted in failure. The Petitioner contended that the nature of work performed by the Petitioner is perennial in nature and continuous as such, the Petitioner is entitled for regularization. When Petitioner asked for minimum wages, her services were terminated and after termination of

Petitioner and other workers' some other workers were engaged through M/s. Private Eye Security Services by first Respondent management. Petitioner was directly employed by Respondent management and Respondent management provided ESI and PF benefits. The management has changed the service condition showing the Petitioner as contract labour. Thus, the alleged contract with Sri G. Mohan Reddy is a sham and shadowy contract. The second Respondent is smoke skilled employer to the Petitioner.

12. The management has denied this allegation and has alleged that the management is autonomous body and for its security and house keeping services institute engaged contractor namely Sri G. Mohan Reddy, Respondent No. 2, to provide security and house keeping service to the institute whose contract expired and a fresh contract was entered into with another contractor from 1-4-2003. Sri G. Mohan Reddy could not succeed to secure second contract. The new contractor M/s. Private Eye Security Services was lowest bidder and he was offered the contract. He did not engage the Petitioner under his control. Petitioner approached Assistant Labour Commissioner(C), who started conciliation proceeding which resulted in failure and the matter was referred to Central Government. Petitioner was under the direct control of Respondent No. 2 who was a contractor who agreed to provide ESI and PF benefits to contract labours and minimum wages to them. It is incorrect to say that Petitioner was directly employed by the management and Sri G. Mohan Reddy was a screen between management and the Petitioner. It is alleged that the contract with Sri G. Mohan Reddy was a genuine and valid contract for providing house keeping and security services to the management whose contract lasted upto 31-3-2003. A fresh contract was entered into between M/s. Private Eye Security Services and first Respondent. It is not correct to suggest that the contract entered into between Sri G. Mohan Reddy and first Respondent was sham and shadowy.

13. Sri G. Mohan Reddy has not filed any reply in this case. Though, there is allegation of Petitioner and counter allegation from the side of the management. There was no contract between Sri G. Mohan Reddy and management whereas management alleges that there was contract and has filed documents Ex. M 1 to M22 to prove that the contract was entered into between the management of CITD and Sri G. Mohan Reddy on 1-9-1991 for providing work force to the management. Original documents of the contract, application of Sri G. Mohan Reddy and information to Sri G. Mohan Reddy in the form of Ex. M6, M7, M8, M9, M10, M12 are on the record, which have been proved by witness for the management. In view of the documentary evidence there is statement of the Petitioner on oath along with documentary evidence Ex. W1 to W4 to show that the Petitioner has worked in the CITD but the documents of the Petitioner Ex. W3 show that the Petitioner

was shown as contract labour in their PF scheme papers and Sri G. Mohan Reddy has been shown as their contractor. This paper has been filed by the Petitioner herself and the Petitioner has filed her affidavit as examination in chief where it has been stated that there was no contract between Sri G. Mohan Reddy and Respondent. Even in her cross-examination, Petitioner stated that her signatures were obtained at the time of issue of the cheque which is Ex.M2 filed by the Respondent. She has denied that contractor Sri G. Mohan Reddy has paid salary to her since 1999 onwards. She has further stated that she has made representation before Assistant Labour Commissioner(C) for employment under new contractor. However, management has filed original application or representation of the Petitioner wherein Smt. G. Kistamma is also one of the signatories to make payment of her Provident Fund which is Ex.M1 available on the record. Petitioner has accepted that Ex. M1 bears her signature. It proves that the Petitioner has made request to the Chairman, CPF Trust for settlement of her PF dues wherein she has written that she is a employee under Sri G. Mohan Reddy, whose organization the Petitioner has left and she want to settle her dues. This material fact has been proved by the management witness Sri J. Jaihind Babu, who stated that the Petitioner was contract labour of Sri G. Mohan Reddy, said Sri G. Mohan Reddy has entered into a contract with management to provide security and house keeping jobs to the management, contract agreement was entered into on 1-9-1991 which is on the record.

14. There is evidence that M/s. Private Eye Security Services Ltd., entered into a contract who did not engage the Petitioner as labour. Petitioner made application to the Assistant Labour Commissioner(C) to provide job under second contractor who did not employ her as such, the Petitioner approached this Tribunal. Respondent's documents Ex. M1 to M22 clearly prove that a contract agreement was entered into between the management and Sri G. Mohan Reddy as back as in the year 1991 and renewed again from 1991 to 2003 every year and the Petitioner was engaged by Sri G. Mohan Reddy. There is no iota of evidence to prove that the Petitioner was engaged directly by the management. Not only that the Petitioner approached Assistant Labour Commissioner(C) for her employment under the second contractor M/s. Private Eye Security Services. This prove that the Petitioner was simply contract labourer. Contractor Sri G. Mohan Reddy has filed his vakalath in this case from Petitioner side but he has not filed petition stating that he was not contractor in CITD. Besides this, there are letters of renewal of contract Ex. M6 to M14 which prove that contract of Sri G. Mohan Reddy was renewed from time to time. This prove that Sri G. Mohan Reddy was a contractor and Petitioner was employed by Sri G. Mohan Reddy for security and house keeping jobs of the CITD.

15. It has been argued by the Learned Counsel for the Petitioner that CITD is the real employer of the Petitioner because Commissioner of Gratuity has held in the matter of these Petitioners that the Petitioners are employees of CITD and directed the management of CITD to pay the gratuity. His order has been challenged by the management before the Appellate Authority and the matter is pending before the Appellate Authority. Thus, the matter is finally settled by the competent authority that the Petitioner of this case is employee of the CITD management hence, this Tribunal has no other option but to uphold the finding of the Payment of Gratuity Authority. Against this argument of the Learned Counsel for the Petitioner, the counsel for the management has argued that the order of the Payment of Gratuity Commissioner or Controlling Authority is not final, said order has been challenged by the management before Appellate Authority and the appeal is pending before the Appellate Authority as such, it can not be said that the order of the Gratuity Authority has become final and binding on this Tribunal. I have considered this aspect of the case. Since the order of the Payment of Gratuity Authority has been challenged by management by appeal which is pending before the Appellate Authority, the matter is in pendency, i.e., pending for adjudication before the competent authority as such, this Tribunal is not bound by the finding of the Controlling Authority and Director of Payment of Gratuity.

16. Moreover, Respondent management has filed xerox copy of the statement from Employees State Insurance Corporation where Sri G. Mohan Reddy, a labour contractor is said to be the Principal employer who has deposited contribution towards the Provident Fund for Petitioner of this case in the years 2002, 2003, a detailed statement of the same has been filed as Ex. M19. There is another document filed by the Respondents Ex. M18 which is the xerox copy of the extract from the payment of wages register. The payment has been made by Sri G. Mohan Reddy to all the Petitioners, this shows that the payment to the Petitioner was not made directly by the management of CITD but it was paid by Sri G. Mohan Reddy, the contractor. Thus, the test of relationship of employer and employee as laid down by the Hon'ble Supreme Court does not qualify in the present case. It is proved that Petitioner was employed by Sri G. Mohan Reddy who was a contractor, he made payment of the wages to the Petitioner. He deducted her PF and deposited the same with the competent authority as such, the contract between Sri G. Mohan Reddy and management is proved to be genuine and valid in this case. The Petitioner has not been able to prove that the contract of Sri G. Mohan Reddy was sham and shadowy, as such, this Tribunal has come to the conclusion that the contract between the management of CITD and Sri G. Mohan Reddy is not a sham and shadowy contract.

17. Point No.(II): This Tribunal has to consider whether the demand of the Petitioner for reinstatement in

the establishment is justified or not. It has been argued by the Learned Counsel for the Petitioner that Petitioner was employed by the CITD management and CITD management has disengaged the Petitioner without following the due process of the law as such, the termination order of the Petitioner is illegal and Petitioner deserves to be reinstated in the service. He has further argued that the management of CITD and alleged Sri G. Mohan Reddy entered into a shadowy contract, Sri G. Mohan Reddy was a shadow of management and principal employer is CITD. The employees were directly employed by the management as such, in view of the case law reported in (2003) 6 SCC page 528 in the matter of Bharat Heavy Electricals Ltd. Vs. State of V.P. and others, it is held that, "since there was sham and shadowy contract there was direct relationship of employer and employee between the Petitioner and the Respondent." Petitioner was an employee of the Respondent No. 1 as such, her termination from the service without following the due procedure of the law is illegal. Learned Counsel for the Petitioner has argued that Hon'ble Supreme Court in the matter of BHEL Vs. State of V.P. has laid down a test for control of employer-employee relationship in cases of signed labour contracts wherein it was held that the workmen were engaged through contractor only, the employer was maintaining record of attendance and supervising their work through his own employees.

18. In the present case Petitioner has neither claimed nor adduced any evidence that the CITD management used to maintain attendance register or the management Respondent used to maintain attendance register or supervised work of the petitioner through their own employees as such, it can not be said that the Petitioner has fulfilled the test of relationship of master and servant between the Petitioner and the management. The Petitioner has nowhere alleged that the management was maintaining attendance register of the Petitioner or the management's employee was supervising the work of the Petitioner. Respondent's counsel has argued that the Petitioner has not been able to come out of test successfully, which is laid down by the Hon'ble Supreme Court. I have considered this aspect of the argument of the Learned Counsel for the parties and has perused the evidence of Petitioner and the claim statement filed by the Petitioner as well. There is no mention of a single word that the maintenance of the attendance register or supervision of the work was directly done by CITD or through its own employee as such, the test laid down by Hon'ble Supreme Court is not fulfilled in the present case.

19. There is evidence on the record to prove that the Petitioner was engaged through Sri G. Mohan Reddy, her PF and ESI subscriptions were deducted and deposited by Sri G. Mohan Reddy till there was a subsisting contract between Sri G. Mohan Reddy and the CITD management and Petitioner left work after termination of the contract

with Sri G. Mohan Reddy. Not only that the Petitioner approached Assistant Labour Commissioner(C) for directing the newly appointed contractor i.e., M/s. Private Eye Security Services to re-employ this Petitioner which he could not prove. It is fully proved that Petitioner was contract labour engaged by Sri G. Mohan Reddy, and their services came to be discontinued upon the expiry of the contract or termination of the contract with Sri G. Mohan Reddy and Petitioner's services cease to exist. The services of the Petitioner were neither terminated nor disengaged by the Respondent No.1 management. The Petitioner's services were simply a contract service which ceased to exist consequent upon termination of contract, as such there is no illegality or irregularity on the part of the Respondent No.1 in disengagement of the Petitioner from the services, the Petitioner is not eligible for reinstatement by the Respondent No.1 as claimed by the Petitioner. The case law cited by Learned Counsel for the Petitioner i.e., BHEL Vs. State of U.P. reported in (2003) 6 SCC page 528 is not applicable in the present case and Petitioner is not entitled for reinstatement. Point No.(II) is decided accordingly.

20. Point No. (III): The Petitioner has not been able to prove that contract with Sri G. Mohan Reddy was sham or shadowy nor has been able to prove that her services were terminated illegally by the management of CITD. As such, the Petitioner is not entitled for any relief.

21. In the result, this Tribunal has come to the conclusion that, the contract awarded by the management of Central Institute of Tool Design, Balanagar, Hyderabad to M/s Mohan Reddy is not sham. The demand of Smt. Kistamma for reinstatement in the establishment of Central Institute of Tool Design, Balanagar, Hyderabad is not justified as such, the Petitioner is not entitled for any relief. Reference is answered accordingly.

Award passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant transcribed by her corrected by me on this the 30th day of January, 2012.

VED PRAKASH GAUR, Presiding Officer

Appendix of evidence

Witnesses examined for
the Petitioner

WW1: Smt. G. Kistamma

Witnesses examined for
the Respondent

MW1: Sri R. Jaihind Babu

Documents marked for the Petitioner

Ex.W1: Copy of ESI Card No.6593

Ex.W2: Copy of PF slip for the year 1991-92 & 2001-02

Ex.W3: Copy of payment of gratuity notice dtd.23-1-2004

Ex.W4: Copy of EPF contribution list

Documents marked for the Respondent

Ex.M1: Original representation of Petitioner along with other Petitioners for settlement of CPF.

Ex.M2: Copy of PF slip for the year 1992-1993.

Ex.M3: Copy of representation of WW 1 to ALC(C)

Ex.M4: Authorization management dtd.13-4-2010.

Ex.M5: Original service contract agreement with Sri G. Mohan Reddy by R1 dtd.1-9-1991.

Ex.M6: Office copy of letter renewing the service contract dtd. 16-6-92 from 1-9-92 to 31-3-93.

Ex.M7: Office copy of letter renewing the service contract dtd. 2-8-93 from 1-9-93 to 31-8-94.

Ex.M8: Office copy of letter renewing the service contract dtd. 6-8-94 from 1-9-94 to 31-8-95.

Ex.M9: Office copy of letter renewing the service contract dtd. 8-10-95 from 1-9-95 to 31-8-1996.

Ex.M10: Office copy of letter renewing the service contract dtd. 4-9-96 from 1-9-96 to 31-8-1997.

Ex.M11: Office copy of letter renewing the service contract dtd. 8-9-97 from 1-9-97 to 31-8-98.

Ex.M12A: Office copy of letter renewing the service contract dtd. 8-9-98 from 1-9-98 to 31-8-99.

Ex.M12B: Office copy of letter renewing the service contract dtd. 9-9-99 from 1-9-99 to 31-8-2000.

Ex.M13: Office copy of letter renewing the service contract dtd. 24-8-2001 from 1-9-2001 to 31-8-2002.

Ex.M14: Office copy of letter terminating the service contract dtd. 25-3-03 w.e.f 1-4-2003.

Ex.M15: Original Memorandum of Settlement & Rules & Regulations.

Ex.M16: Copy of resolution dt.31-3-1970.

Ex.M17: Copy of security contract agreement dtd. 22-4-2003.

Ex.M18: Copy of Payment register of wages.

Ex.M19: Copy of ESI statement .

Ex.M20: Copy of Statement of Employees Pension Scheme.

Ex.M21: Office copy of Ir. No.Citd/Estd/CL/2004/953 & 954 dtd. 29-5-04 to ALC(C) by management .

Ex.M22: Office copy of Ir. No.Citd/Estd/CL/2004/1123 & 1124 dtd. 5-6-04 to ALC(C) by management..

नई दिल्ली, 12 मार्च, 2012

का.आ. 1255.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) को धारा 17 के अनुसरण में, केन्द्रीय सरकार सी आई टी डी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, हैदराबाद के पंचाट (संदर्भ संख्या 141/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-03-2012 को प्राप्त हुआ था।

[सं. एल-42012/254/2003-आईआर (सीएम-II)]

डी. एस. एस. श्रीनिवास राव, डंस्क अधिकारी

New Delhi, the 12th March, 2012

S.O. 1255.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No.141/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the industrial dispute between the management of Central Institute of Tools Design, CITD, and their workmen, which was received by the Central Government on 12-03-2012.

[No. L-42012/254/2003-JR (CM-II)]

D.S.S. SRINIVASA RAO, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

PRESENT : Shri VED PRAKASH GAUR, Presiding Officer

Dated the 30th day of January, 2012

INDUSTRIAL DISPUTE No. 141/2004

Between:

Sri. K. Pasha,
S/o Sk Abbas,
R/o H.No.10-10-257,
Indira Gandhi Puram, Fathenagar,
Hyderabad. Petitioner

AND

1. Principal Director,
Central Institute of Tools Design (CITD),
Balanagar, Hyderabad.
2. Sri Mohan Reddy,
Contractor, CITD, .
Hyderabad. Respondents

Appearances:

For the Petitioner: M/s. K. Ravinder Goud and Y.
Ranjeeth Reedy, Advocates

For the Respondent: M/s. C. Niranjan Rao, M
Subrahmanya Sastry & L. Chandra
Mohan Reddy, Advocates for R 1
M/s. K. P. Jagan Reddy, K. Jyothi
and C. Rajeswara Reddy,
Advocates for R 2

AWARD

This reference is received from the Government of India, Ministry of Labour by its order No.L-42012/254/2003-IR(CM-II) dated 2-8-2004 under section 10(1)(d) of the I.D. Act, 1947 to adjudicate the dispute between Sri. K. Pasha and the management of Central Institute of Tools Design, Balanagar, Hyderabad. The term of reference is as under:

SCHEDULE

“Whether the contract awarded by the management of Central Institute of Tool Design, Balanagar, Hyderabad to M/s. Mohan Reddy is sham or not? If so, the demand of Sri K. Pasha for reinstatement in the establishment of Central Institute of Tools Design, Balanagar, Hyderabad is justified? If so, to what relief the workman is entitled to?”

The reference was registered in this Tribunal, numbered in this Tribunal as I.D.No. 141/2004 and notices were issued to the parties.

2. Sri. K. Pasha has filed his claim statement alleging therein that he joined as security guard in the year 1997 in Respondent's organization. He was appointed by Respondent contractor, who was appointed as contractor by Respondent No.1. Petitioner continued to work upto 31-3-2003. When he asked for the minimum wages, his services along with other workers were terminated from 1-4-2003 which is contrary to the Industrial Disputes Act, 1947. The Petitioner raised labour dispute before Assistant Labour Commissioner(C) and the conciliation proceeding ended in failure and the matter was referred to the Ministry of Labour and Employment and who has referred this dispute to this Tribunal.

3. Petitioner has alleged that the nature of work done by him is of perennial and continuous nature and Petitioner was entitled for regularization. His services were liable to be regularized but his services were discontinued against the provisions Industrial Disputes Act, 1947 other workers were engaged by the Respondent management. There was no contract between first and second Respondent every time this prove that Petitioner was directly employed by Respondent and first Respondent provided ESI and PF benefit to the Petitioner. The first Respondent changed service conditions and Petitioner was shown as contract labour. Petitioner has worked for above 6 years, the alleged contract between first Respondent and second Respondent is of sham character and is smokescreen between the Respondent No. 1 and 2. The Petitioner filed Provident Fund and Gratuity cases which were decided in their favour against which appeal has been filed by the first Respondent which is pending before Appellate Authority, as such, the action of management be declared to be illegal and contract between 1st Respondent and 2nd Respondent be declared as sham and smoky.

4. Respondent has filed counter statement alleging therein that Respondent No. 1 is an autonomous body registered under Societies Registration Act having their office within the territory of A.P. The institute have engaged certain workman through contractor Mr. G. Mohan Reddy for providing security and house keeping services. After the expiry of the contract between Mr. G. Mohan Reddy and the Respondent No. 1, a fresh contract was entered into with the new contractor w.e.f. 1-4-2003. It is alleged

that Respondent No. I issued advertisement inviting tender for engagement of the labour contractor. Mr. G. Mohan Reddy earlier contractor was unsuccessful bidder and contract was awarded to M/s. Private Eye Security Services, Hyderabad. The workers of first contractor Mr. G. Mohan Reddy approach Assistant Labour Commissioner (C) for their continuation in the service through the new contractor which they could not succeed. The matter was referred to the Government. Second Respondent has entered into contract with first Respondent on 1-9-1991 to provide house keeping and security services and provided ESI and PF benefits to all the contract labourers and to pay minimum wages. Petitioner of this case is neither a worker of first Respondent nor he is entitled to be reinstated by 1st Respondent. The first Respondent is an institute under Small Scale Development Industrial Organization with an objective of providing training to be the Electrical Personnel in designing and tool making, dies and moulds etc. Government of India has no control over this organization, vide order dated 31-3-1970 the Government of India has no control over the first Respondent. Government of India has no jurisdiction to refer the matter to this Tribunal, the reference is void ab initio. The State of Andhra Pradesh is the appropriate Government in the present matter. This objection was raised before the Assistant Labour Commissioner (C) who has not considered this objection nor referred this objection to the Ministry. The Respondent No. I has entered into contract for providing work force with M/s. Private Eye Securities Services who has not been impleaded as party. Petitioner wanted to secure a job under the Private Eye Security Services as contract between 1st Respondent and G. Mohan Reddy ceases to exist. The earlier contract with G. Mohan Reddy was valid and bonafide contract, it was neither sham nor smoky. The case law relied by the Petitioner has no relevance with the present case. The Petitioner has worked as contract labour and he was engaged by the contractor. There is no direct relationship of master and servant between the Petitioner and the first Respondent. Hence, petition deserves to be dismissed.

5. Parties were directed to produce their evidence. Petitioner Sri. K. Pasha has filed her affidavit in examination in chief and produced himself for cross examination. He has marked 4 documents Ex. W1 to W4 in evidence.

6. Respondent have filed affidavit of Sri R. Jai Hind Babu, Assistant Director of the Institute who has marked 21 documents Ex. M1 to M21 and has presented himself for cross examination.

7. I have heard counsels for both the parties and have perused the pleadings and evidence of the parties.

8. It has been argued by Learned Counsel for the Petitioner that the management has entered into a sham contract with Sri G. Mohan Reddy for providing labour force to a perennial and continuous nature job. The Petitioner after working for more than 6 years were shown as contract labour and some other workers also have

worked for more than nine years. Sri G. Mohan Reddy used to provide labour to first Respondent. This way the contract between Sri G. Mohan Reddy and first Respondent was sham and smoky contract with a view to deprive the legally desirable candidate from seeking a regular employment and regular absorption in the service. The employees were directly employed by the management as such, in view of the case law reported in (2003) 6 SCC page 528 in the matter of Bharat Heavy Electricals Ltd. Vs. State of U.P. and others, whereas it is held that, "since there was sham and shadowy contract there was direct relationship of employer and employee between the Petitioner and the Respondent," the contract between first Respondent and second Respondent is sham and shadowy. It has further been argued by Learned Counsel for the Petitioner that perennial nature job was available in the Respondent's organization in that case, work taken from contract labour is illegal and such contract labour should be deemed to be legally appointed by Respondent No. 1. He has further argued that in the matter of payment of gratuity the Controller of Gratuities has allowed application of the Petitioner for payment of the Gratuity that order is binding on both the parties, the Controller of the Gratuity has opined that the Petitioner is an employee of CITD, This finding of the Controller of Gratuity was neither set aside nor quashed by any competent authority as such, this Tribunal has to follow the finding of Controller of Gratuity and thus, it is clear and fully proved that Petitioner is an employee of CITD, he was illegally employed through a sham contract, therefore the termination or disengagement of the services of the Petitioner is violative of industrial law.

9. Against the above argument of Learned Counsel for Petitioner. Learned Counsel for the Respondent has argued that the Respondent has already raised an objection that the Respondent is not an organization of Central Government or an organization funded or controlled by the Central Government as such, the Central Government is not an appropriate authority in the present case. The first Respondent is a registered society under Societies Registration Act and it is being controlled and governed by said laws as such, the State Government is the competent authority in the present case. The reference made by Government of India is void ab initio and this Tribunal should not act upon the reference made by the Government of India. The Learned Counsel for the Respondent has further argued that so far as the order of Controller of Gratuity is concerned his order has been challenged by way of appeal before the Appellate Authority which is pending there as such, it can not be said that the order passed by Controller of Provident Fund has become final or the finding arrived at by the Controller of gratuity is binding on this Tribunal. He has further argued that the Petitioner himself resigned from the service of the contractor. He has argued that the Petitioner has voluntarily resigned from the post of contract labour from

organization of G. Mohan Reddy, after his resignation from the services of G. Mohan Reddy, he has taken back his Provident Fund amount since the contract with G. Mohan Reddy was not renewed by first Respondent. G. Mohan Reddy himself was instrumental in moving this petition because G. Mohan Reddy has also joined the Petitioner of this case who engaged Sri K.P. Jagan Reddy and other Advocates in this case. Not only that the Petitioner in his cross examination has admitted that a contract with M/s. Private Eye Security Services was entered into between first Respondent and M/s. Private Eye Security Services. He has further admitted that they have applied for refund of Gratuity amount. In cross examination MW1 has admitted that it is not correct that labour contract with G. Mohan Reddy was sham and smoky. He has admitted that the contract with G. Mohan Reddy was terminated on 25-3-2003. From the year 1989 to 1991 some workmen were engaged as daily wagers by CITD and from 1991 to 2003 they worked through contractor G. Mohan Reddy. This prove that the claim of the Petitioner that they have worked from 1991 to 2003 under CITD as their employees is not correct. From the own statement of the Petitioner it is proved that earlier Petitioner was engaged by contractor Sri G. Mohan Reddy under whom he worked upto 2003. Thereafter the contract ceased to exist and another contract was entered between M/s. Private Eye Security Services and Respondent No.1 who did not engage the Petitioner and other workmen, as such, the Petitioner's claim for absorption or regularization in service by CITD is devoid of any merit.

10. On the basis of the arguments advanced by Learned Counsels for the parties, this Tribunal has to consider the following points:—

(I) Whether the contract awarded by the management of CITD to Sri G. Mohan Reddy is sham or not?

(II) Whether the demand of Sri K. Pasha for reinstatement in the establishment of CITD is justified?

(III) To what relief if any the workman is entitled?

11. Point No. (I) : Petitioner has alleged in his claim statement that management engaged some workers through contractor namely Sri G. Mohan Reddy for providing security and house keeping services. It is further alleged that after expiry of said contract of Sri G. Mohan Reddy a fresh contract was entered into with new contractor w.e.f. 1-4-2003. It has further been alleged that after expiry of contract with Sri G. Mohan Reddy, Respondent management issued an advertisement and followed procedure for engaging contract labour, in which the earlier contractor was unsuccessful bidder in the said procedure as such, the contract was awarded to M/s. Private Eye Security Services as they were the lowest bidder. In view of the fact that new contract came into existence with another contractor the Petitioner approached Assistant Labour Commissioner(C) for his

continuation in service through the new contractor. The Petitioner has alleged that he joined as security guard in first Respondent organization and second Respondent who is a contractor appointed him in first Respondent's organization and the contractor provided ESI and PF to Petitioner. The Petitioner worked in that capacity upto 31-3-2003. When Petitioner asked for minimum wages the first Respondent terminated his services from 1-4-2003 onwards. The Petitioner approached conciliation officer who entered into conciliation proceedings which resulted in failure. The Petitioner contended that the nature of work performed by the Petitioner is perennial in nature and continuous as such, the Petitioner is entitled for regularization. When Petitioner asked for minimum wages, his services were terminated and after termination of Petitioner and other workers' some other workers were engaged through M/s. Private Eye Security Services by first Respondent management. Petitioner was directly employed by Respondent management and Respondent management provided ESI and PF benefits. The management has changed the service condition showing the Petitioner as contract labour. Thus, the alleged contract with Sri G. Mohan Reddy is a sham and shadowy contract. The second Respondent is smoke skilled employer to the Petitioner.

12. The management has denied above allegation and has alleged that the management is autonomous body and for its security and house keeping services institute engaged contractor namely Sri G. Mohan Reddy, Respondent No. 2, to provide security and house keeping service to the institute whose contract expired and a fresh contract was entered into with another contractor from 1-4-2003. Sri G. Mohan Reddy could not succeed to secure second time contract. The new contractor M/s. Private Eye Security Services was lowest bidder and he was offered the contract. He did not engage the Petitioner under his control. Petitioner approached Assistant Labour Commissioner(C), who started conciliation proceeding which resulted in failure and the matter was referred to Central Government. Petitioner was under the direct control of Respondent No. 2 who was a contractor who agreed to provide ESI and PF benefits to contract labours and minimum wages to them. It is incorrect to say that Petitioner was directly employed by the management and Sri G. Mohan Reddy was a screen between management and the Petitioner. It is alleged that the contract with Sri G. Mohan Reddy was a genuine and valid contract for providing house keeping and security services to the management whose contract lasted upto 31-3-2003. A fresh contract was entered into between M/s. Private Eye Security Services and first Respondent. It is not correct to suggest that the contract entered into between Sri G. Mohan Reddy and first Respondent was sham and shadowy.

13. Sri G. Mohan Reddy has not filed any reply in this case. Though, there is allegation of Petitioner and

counter allegation from the side of the management. The claim of Petitioner is that there was no contract between Sri G. Mohan Reddy and management whereas management alleges that there was contract and has filed documents Ex. M1 to M21 to prove that the contract was entered into between the management of CITD and Sri G. Mohan Reddy on 1-9-1991 for providing work force to the management. Copy of contract document, application of Sri G. Mohan Reddy and information to Sri G. Mohan Reddy in the form of Ex. M4, M5, M6, M7, M8, M9, M10, M11 and M12 are on the record, which have been proved by witness for the management. Apart from the documentary evidence there is statement of the Petitioner on oath along with documentary evidence Ex. W1 to W4 to show that the Petitioner has worked in the CITD but the documents of the Petitioner show that the Petitioner was shown as contract labour in their PF scheme papers and Sri G. Mohan Reddy has been shown as their contractor. This paper has been filed by the Petitioner himself and the Petitioner has filed his affidavit as examination in chief where it has been stated that there was no contract between Sri G. Mohan Reddy and Respondent. He has further stated that he has made representation before Assistant Labour Commissioner (C) for employment under new contractor. Petitioner has accepted that Ex. M1 bears his signature. Petitioner admitted that he has withdrawn his PF amount. This material fact has been proved by the management witness Sri J. Jaithind Babu, who stated that the Petitioner was contract labour of Sri G. Mohan Reddy, said Sri G. Mohan Reddy has entered into a contract with management to provide security and house keeping jobs to the management, contract agreement was entered into on 1-9-1991 which is on the record.

14. There is evidence that M/s. Private Eye Security Services Ltd., entered into a contract who did not engage the Petitioner as labour. Petitioner made application to the Assistant Labour Commissioner (C) to provide job under second contractor who did not employ him as such, the Petitioner approached this Tribunal. Respondent's documents Ex. M1 to M21 clearly prove that a contract agreement was entered into between the management and Sri G. Mohan Reddy as back as in the year 1991 and renewed again from 1991 to 2003 every year and the Petitioner was engaged by Sri G. Mohan Reddy. There is no iota of evidence to prove that the Petitioner was engaged directly by the management. Not only that the Petitioner approached Assistant Labour Commissioner(C) for his employment under the second contractor M/s. Private Eye Security Services. This prove that the Petitioner was simply contract labourer. Contractor Sri G. Mohan Reddy has filed his vakalath in this case from Petitioner side but he has not filed petition stating that he was not contractor in CITD. Besides this, there are letters of renewal of contract Ex. M4 to M12 which prove that contract of Sri G.

Mohan Reddy was renewed from time to time. This prove that Sri G. Mohan Reddy was a contractor and Petitioner was employed by Sri G. Mohan Reddy for security and house keeping jobs of the CITD.

15. It has been argued by the Learned Counsel for the Petitioner that CITD is the real employer of the Petitioner because Commissioner of Gratuity has held in the matter of these Petitioners that the Petitioners are employees of CITD and directed the management of CITD to pay the gratuity. His order has been challenged by the management before the Appellate Authority and the matter is pending before the Appellate Authority. Thus, the matter is finally settled by the competent authority that the Petitioner of this case is employee of the CITD management hence, this Tribunal has no other option but to uphold the finding of the Payment of Gratuity Authority. Against this argument of the Learned Counsel for the Petitioner, the counsel for the management has argued that the order of the Payment of Gratuity Commissioner or Controlling Authority is not final, said order has been challenged by the management before Appellate Authority and the appeal is pending before the Appellate Authority as such, it cannot be said that the order of the Gratuity Authority has become final and binding on this Tribunal. I have considered this aspect of the case. Since the order of the Payment of Gratuity Authority has been challenged by management in appeal which is pending before the Appellate Authority, the matter is les pendence, i.e., pending for adjudication before the competent authority as such, this Tribunal is not bound by the finding of the Controlling Authority and Director of Payment of Gratuity.

16. Moreover, Respondent management has filed xerox copy of the statement from Employees State Insurance Corporation where Sri G. Mohan Reddy, a labour contractor is said to be the Principal employer who has deposited contribution towards the Provident Fund for Petitioner of this case in the year 2001-2002, a detailed statement of the same has been filed as Ex. M18. There is another document filed by the Respondents Ex. M17 which is the xerox copy of the extract from the payment of wages register. The payment has been made by Sri G. Mohan Reddy to all the Petitioners, this shows that the payment to the Petitioner was not made directly by the management of CITD but it was paid by Sri G. Mohan Reddy, the contractor. Thus, the test of relationship of employer and employee as laid down by the Hon'ble Supreme Court does not qualify in the present case. It is proved that Petitioner was employed by Sri G. Mohan Reddy deducted who was a contractor, he made payment of the wages to the Petitioner. He deducted his PF and deposited the same with the competent authority as such, the contract between Sri G. Mohan Reddy and management is proved to be genuine and valid in this case. The Petitioner has not been able to prove that the contract of Sri G. Mohan Reddy was sham and shadowy, as such, this

Tribunal has come to the conclusion that the contract between the management of CITD and Sri G. Mohan Reddy is not a sham and shadowy contract. Point No. (I) is decided accordingly.

17. Point No. (II) : This Tribunal has to consider whether the demand of the Petitioner for reinstatement in the establishment is justified or not. It has been argued by the Learned Counsel for the Petitioner that Petitioner was employed by the CITD management and CITD management has disengaged the Petitioner without following due process of the law as such, the termination order of the Petitioner is illegal and Petitioner deserves to be reinstated in the service. He has further argued that the management of CITD and Sri G. Mohan Reddy entered into a shadowy contract, Sri G. Mohan Reddy was a shadow of management and principal employer is CITD. The employees were directly employed by the management as such, in view of the case law reported in (2003) 6 SCC page 528 in the matter of Bharat Heavy Electricals Ltd. Vs. State of U.P. and others, wherein it is held that, "since there was sham and shadowy contract there was direct relationship of employer and employee between the Petitioner and the Respondent." Petitioner was an employee of the Respondent No.1 as such, his termination from the service without following the due procedure of the law is illegal.

18. In the present case Petitioner has neither claimed nor adduced any evidence that the CITD management used to maintain attendance register or supervised work of the petitioner through their own employees as such, it cannot be said that the Petitioner has fulfilled the test of relationship of master and servant between the Petitioner and the management. The Petitioner has no where alleged that the management was maintaining attendance register of the Petitioner or the management's employee was supervising the work of the Petitioner. Respondent's counsel has argued that the Petitioner has not been able to prove test successfully, which is laid down by the Hon'ble Supreme Court. I have considered this aspect of the argument of the Learned Counsel for the parties and has perused the evidence of Petitioner and the claim statement filed by the Petitioner as well. There is no mention of a single word that the maintenance of the attendance register or supervision of the work was directly done by CITD or through its own employee as such, the test laid down by Hon'ble Supreme Court is not fulfilled in the present case.

19. There is evidence on the record to prove that the Petitioner was engaged through Sri G. Mohan Reddy, his PF and ESI subscriptions were deducted and deposited by Sri G. Mohan Reddy till there was a subsisting contract between Sri G. Mohan Reddy and the CITD management and Petitioner left work after termination of the contract with Sri G. Mohan Reddy. Not only that the Petitioner approached Assistant Labour Commissioner (C) for directing the newly appointed contractor i.e., M/s. Private

Eye Security Services to re-employ this Petitioner which he could not prove. It is fully proved that Petitioner was contract labour engaged by Sri G. Mohan Reddy, and his services came to be discontinued upon the expiry of the contract or termination of the contract with Sri G. Mohan Reddy and Petitioner's services cease to exist. The services of the Petitioner were neither terminated nor disengaged by the Respondent No.1 management. The Petitioner's services were simply a contract service which ceased to exist consequent upon termination of contract, as such there is no illegality or irregularity on the part of the Respondent No.1 in disengagement of the Petitioner from the services, the Petitioner is not eligible for reinstatement by the Respondent No.1 as claimed by the Petitioner. The case law cited by Learned Counsel for the Petitioner i.e., BHEL Vs. State of U.P. reported in (2003) 6 SCC page 528 is not applicable in the present case and Petitioner is not entitled for reinstatement. Point No.(II) is decided accordingly.

20. Point No. (III) : The Petitioner has not been able to prove that contract with Sri G. Mohan Reddy was sham or shadowy nor has been able to prove that his services were terminated illegally by the management of CITD. As such, the Petitioner is not entitled for any relief.

21. In the result, this Tribunal has come to the conclusion that, the contract awarded by the management of Central Institute of Tools Design, Balanagar, Hyderabad to M/s. G. Mohan Reddy is not sham. The demand of Sri K. Pasha for reinstatement in the establishment of Central Institute of Tools Design, Balanagar, Hyderabad is not justified as such, the Petitioner is not entitled for any relief. Reference is answered accordingly.

Award passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant transcribed by her corrected by me on this the 30th day of January, 2012.

VED PRAKASH GAUR, Presiding Officer

Appendix of evidence

Witnesses examined for
the Petitioner

WW1 : Sri K. Pasha

Witnesses examined for
the Respondent

MW1 : Sri R. Jaihind Babu

Documents marked for the Petitioner

Ex. W1: Copy of ESI Card

Ex. W2: Copy of PF slip for the year 1997-98

Ex. W3: Copy of gratuity notice dt. 23-1-2004

Ex. W4: Copy of EPF contribution list

Documents marked for the Respondent

Ex. M1: Copy of representation of Petitioner

Ex. M2: Authorization by management dt. 13-4-2010

Ex. M3: Service contract agreement with Sri G. Mohan Reddy by R1 dt. 1-9-1991

Ex.M4: Copy of letter renewing the service contract dt. 16-9-92 from 1-9-92 to 31-8-93

Ex.M5: Office copy of letter renewing the service contract dt. 2-8-93 from 1-9-93 to 31-8-94

Ex. M6: Office copy of letter renewing the service contract dt. 6-9-94 from 1-9-94 to 31-8-95

Ex. M7: Office copy of letter renewing the service contract dt. 8-10-95 from 1-9-95 to 31-8-96

Ex. M8: Office copy of letter renewing the service contract dt. 4-9-96 from 1-9-96 to 31-8-97

Ex. M9: Office copy of letter renewing the service contract dt. 8-9-97 from 1-9-97 to 31-8-98

Ex. M10: Office copy of letter renewing the service contract dt. 8-9-98 from 1-9-98 to 31-8-99

Ex. M11: Office copy of letter renewing the service contract dt. 9-9-99 from 1-9-99 to 31-8-2000

Ex. M12: Office copy of letter renewing the service contract dt. 24-8-2001 from 1-9-2001 to 31-8-2002

Ex. M13: Office copy of letter terminating the service contract dt. 25-3-03 w.e.f. 1-4-2003

Ex. M14: Copy of Memorandum of Settlement & Rules and Regulations

Ex. M15: Copy of resolution dt. 31-3-1970

Ex. M16: Copy of security contract agreement dt. 22-4-2003

Ex. M17: Copy of Payment register - of wages

Ex. M18: Copy of ESI statement

Ex. M19: Copy of Statement of Employees Pension Scheme

Ex. M20: Office copy of letter No. CITD/Estb/CL/2004/ 953 and 954 dt. 29-5-04 to ALC(C) by management

Ex. M21: Office copy of letter No. CITD/Estb/CL/2004/ 1123 and 1124 dt. 5-6-04 to ALC(C) by management.

नई दिल्ली, 12 मार्च, 2012

का.आ. 1256.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी.आई.टी.डी. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 134/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-3-2012 को प्राप्त हुआ था।

[सं. एल-42012/247/2003-आईआर (सीएम-II)]

डी. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 12th March, 2012

S.O. 1256.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No.134/2004)

of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the industrial dispute between the management of Central Institute of Tools Design, CITD and their workmen, received by the Central Government on 12-3-2012.

[No. L-42012/247/2003-IR (CM-II)]

D.S.S. SRINIVASA RAO, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present: Shri VED PRAKASH GAUR, Presiding Officer

Dated the 30th day of January, 2012

Industrial Dispute No. 134/2004

Between:

Sri J. Mallesh,

S/o. J. Adivaiah,

R/o. H.No. 6-5-16, Near Hanuman

Temple Balanagar Hyderabad

...Petitioner

AND

- 1 Principal Director,
Central Institute of Tools Design (CITD),
Hyderabad.
2. Sri Mohan Reddy,
Contractor, CITD,
Hyderabad ... Respondents

Appearances:

For the Petitioner: M/s. K. Ravinder Goud &
Y. Ranjeeth Reedy, Advocates

For the Respondent: M/s. C. Niranjan Rao, M.
Subrahmanyam Sastry & L.
Chandra Mohan Reddy,
Advocates for R1

M/s. K. Jagan Reddy, N:
Vijender Reddy and A.
Balkishan Rao, Advocates for R2

AWARD

This reference is received from the Government of India Ministry of Labour by its order No. L- 42012/247/2003-IR (CM-II) dated 2-8-2004 under Section 10(1)(d) of the I.D. Act, 1947 to adjudicate the dispute between Sri J. Mallesh and the management of Central Institute of Tool Design, Balanagar, Hyderabad. The term of reference is as under:

SCHEDULE

“Whether the contract awarded by the management of Central Institute of Tool Design, Balanagar, Hyderabad to M/s. Mohan Reddy is sham or not? If so, the demand of Sri J. Mallesh for

reinstatement in the establishment of Central Institute of Tool Design, Balanagar, Hyderabad is justified? If so, to what relief the workman is entitled to?"

The reference was registered in this Tribunal, numbered in this Tribunal as I.D. No. 134/2004 and notices were issued to the parties.

2. Sri J. Mallesh has filed his claim statement alleging therein that he joined as security guard on 6-8-1988 in Respondent's organization. He was appointed by Respondent contractor, who was appointed as contractor by Respondent No.1, Petitioner continued to work upto 31-3-2003. When he asked for the minimum wages, his services along with other workers were terminated from 1-4-2003 which is contrary to the Industrial Disputes Act, 1947. The Petitioner raised labour dispute before Assistant Labour Commissioner (C) and the conciliation proceeding ended in failure, the matter was referred to the Ministry of Labour and Employment and who has referred this dispute to this Tribunal.

3. Petitioner has alleged that the nature of work done by him is of perennial and continuous nature and Petitioner was entitled for regularization. His services were liable to be regularized but his services were discontinued against the provisions of Industrial Disputes Act, 1947, other workers were engaged by the Respondent management. There was no contract between first and second Respondent every time, this prove that Petitioner was directly employed by first Respondent and first Respondent provided ESI and PF benefit to the Petitioner. The first Respondent changed service conditions and Petitioner was shown as contract labour. Petitioner has worked for above 14 years, the alleged contract between first Respondent and second Respondent is of sham character and is smokescreen between the Respondent Nos. 1 and 2. The Petitioner filed Provident Fund and Gratuity cases which were decided in his favour against which appeal has been filed by the first Respondent which is pending before Appellate Authority, as such, the action of management be declared to be illegal and contract between 1st Respondent and 2nd Respondent be declared as sham and smoky.

4. Respondent has filed counter statement alleging therein that Respondent No.1 is an autonomous body registered under Societies Registration Act having their office within the territory of A.P. The institute have engaged certain workmen through contractor Mr. G. Mohan Reddy for providing security and house keeping services. After the expiry of the contract between Mr. G. Mohan Reddy and the Respondent No.1, a fresh contract was entered into with the new contractor w.e.f. 1-4-2003. It is alleged that Respondent No.1 issued advertisement inviting tender for engagement of the labour contractor. Mr. G. Mohan Reddy earlier contractor was unsuccessful bidder and contract was awarded to M/s. Private Eye Security

Services, Hyderabad. The workers of first contractor Mr. G. Mohan Reddy approached Assistant Labour Commissioner (C) for their continuation in the service through the new contractor which they could not succeed. The matter was referred to the government. Second Respondent has entered into contract with first Respondent on 1-9-1991 to provide house keeping and security services and provided ESI and PF benefits to all the contract labourers and to pay minimum wages. Petitioner of this case is neither a worker of first Respondent nor he is entitled to be reinstated by 1st Respondent. The first Respondent is an institute under Small Scale Development Industrial Organization with an objective of providing training to the Electrical Personnel in designing and tool making, dies and moulds etc.. Government of India has no control over this organization, vide order dated 31-3-1970 the Government of India has no control over the first Respondent. Government of India has no jurisdiction to refer the matter to this Tribunal, the reference is void ab initio. The State of Andhra Pradesh is the appropriate government in the present matter. This objection was raised before the Assistant Labour Commissioner (C) who has not considered this objection nor referred this objection to the Ministry. The Respondent No.1 has entered into contract for providing work force with M/s. Private Eye Securities Services who has not been impleaded as party. Petitioner wanted to secure a job under the Private Eye Security Services as contract between 1st Respondent and G. Mohan Reddy ceases to exist. The earlier contract with G. Mohan Reddy was valid and bonafide contract, it was neither sham nor smoky. The case law relied by the Petitioner has no relevance with the present case. The Petitioner has worked as contract labour and he was engaged by the contractor. There is no direct relationship of master and servant between the Petitioner and the first Respondent. Hence, petition deserves to be dismissed.

5. Parties were directed to produce their evidence. Petitioner Sri J. Mallesh has filed his affidavit in examination and produced himself for cross examination. He has marked 4 documents Ex. W 1 to W4 in evidence.

6. Respondent has filed affidavit of Sri R. Jai Hind Babu, Assistant Director of the Institute who has marked 23 documents Ex. M 1 to M 23 and has presented himself for cross examination.

7. I have heard counsels for both the parties and have perused the pleadings and evidence of the parties.

8. It has been argued by Learned Counsel for the Petitioner that the management has entered into a sham contract with Sri G. Mohan Reddy for providing labour force to a perennial and continuous job. The Petitioner after working for more than 14 years was shown as contract labour and some other workers also have worked for more than nine years. Sri G. Mohan Reddy used to provide labour to first Respondent. This way the contract between

Sri G. Mohan Reddy and first Respondent was sham contract with a view to deprive the legally desirable candidate from seeking a regular employment and regular absorption in the service. The employees were directly employed by the management as such, in view of the case law reported in (2003) 6 SCC page 528 in the matter of Bharat Heavy Electricals Ltd. Vs. State of U.P. and others, it is held that, "since there was sham and shadowy contract there was direct relationship of employer and employee between the Petitioner and the Respondent," the contract between first Respondent and second Respondent is sham and shadowy. It has further been argued by Learned Counsel for the Petitioner that perennial nature job was available in the Respondent's organization in that case, work taken from contract labour is illegal and such contract labour should be deemed to be legally appointed by Respondent No.1. He has further argued that in the matter of payment of gratuity the Controller of Gratuities has allowed application of the Petitioner for payment of the Gratuity that the order is binding on both the parties, the Controller of the Gratuity has opined that the Petitioner is an employee of CITD. This finding of the Controller of Gratuity was neither set aside nor quashed by any competent authority as such, this Tribunal has to follow the finding of Controller of Gratuity and thus, it is clear and fully proved that Petitioner is an employee of CITD, he was illegally employed through a sham contract, therefore the termination or disengagement of the services of the Petitioner is violative of industrial law.

9. Against the above argument of Learned Counsel for Petitioner, Learned Counsel for the Respondent has argued that the Respondent has already raised an objection that the Respondent is not an organization of Central Government or an organization funded or controlled by the Central Government as such, the Central Government is not an appropriate authority in the present case. The first Respondent is a registered society under Societies Registration Act and it is being controlled and governed by said laws as such, the State Government is the competent authority in the present case. The reference made by Government of India is void ab initio and this Tribunal should not act upon the reference made by the Government of India. The Learned Counsel for the Respondent has further argued that so far as the order of Controller of Gratuity is concerned his order has been challenged by way of appeal before the Appellate Authority which is pending there as such, it can not be said that the order passed by Controller of Provident Fund has become final or the finding arrived at by the Controller of gratuity is binding on this Tribunal. He has further argued that the Petitioner himself resigned from the service of the contractor. He approached the Chairman of CPF Trust as back as in the year 1998 for payment of his CPF amount on the ground that he has left the organization of G. Mohan Reddy. The management has relied on Ex.M 1 a paper filed by Petitioner himself for refund of the CPF amount. This

prove that the Petitioner has voluntarily resigned from the post of contract labour from organization of G. Mohan Reddy as back as in the year 1993, after his resignation from the services of G. Mohan Reddy, he has taken back his Provident Fund amount since the contract with G. Mohan Reddy was not renewed by first Respondent. G. Mohan Reddy himself was instrumental in moving this petition because G. Mohan Reddy has also joined the Petitioner of this case who engaged Sri K.P. Jagan Reddy and other Advocates in this case. Not only that the Petitioner in his cross-examination has admitted that a contract with M/s. Private Eye Security Services was entered into between first Respondent and M/s. Private Eye Security Services. He has further admitted that they have applied for refund of Gratuity amount. In cross examination MW1 has admitted that it is not correct that labour contract with G. Mohan Reddy was sham and smoky. He has admitted that the contract with G. Mohan Reddy was terminated on 25-3-2003. From the year 1989 to 1991 Petitioner and other workmen were engaged as daily wagers by CITD and from 1991 to 2003 they worked through contractor G. Mohan Reddy. This prove that the claim of the Petitioner that they have worked from 1991 to 2003 under CITD as their employees is not correct. From the own statement of the Petitioner it is proved that earlier Petitioner was daily wager later on in the year 1991 he was engaged by contractor Sri G. Mohan Reddy under whom he worked upto 2003. Thereafter the contract ceased to exist and another contract was entered between M/s. Private Eye Security Services and Respondent No.1 who did not engage the Petitioner and other workmen, as such, the Petitioner's claim for absorption or regularization of service by CITD is devoid of any merit.

10. On the basis of the arguments advanced by Learned Counsels for the parties, this Tribunal has to consider the following points:—

- (I) Whether the contract awarded by the management of CITD to Sri G. Mohan Reddy is sham or not?
- (II) Whether the demand of Sri J. Mallesh for reinstatement in the establishment of CITD is justified?
- (III) To what relief if any the workman is entitled?

11. Point No.(I): Petitioner has alleged in his claim statement that management engaged some workers through contractor namely Sri G. Mohan Reddy for providing security and house keeping services. It is further alleged that after expiry of said contract of Sri G. Mohan Reddy a fresh contract was entered into with new contractor w.e.f. 1-4-2003. It has further been alleged that after expiry of contract with Sri G. Mohan Reddy, Respondent management issued an advertisement and followed procedure for engaging contract labour, in which the earlier contractor was unsuccessful bidder in the said

procedure as such, the contract was awarded to M/s. Private Eye Security Services as they were the lowest bidder. In view of the fact that new contract came into existence with another contractor the Petitioner approached Assistant Labour Commissioner (C) for his continuation in service through the new contractor. The Petitioner has alleged that he joined as security guard in first Respondent organization and second Respondent who is a contractor appointed him in first Respondent's organization and the contractor provided ESI and PF to Petitioner. The Petitioner worked in that capacity upto 31-3-2003. When Petitioner asked for minimum wages the first Respondent terminated his services from 1-4-2003 onwards. The Petitioner approached conciliation officer who entered into conciliation proceedings which resulted in failure. The Petitioner contended that the nature of work performed by the Petitioner is perennial in nature and continuous as such, the Petitioner is entitled for regularization. When Petitioner asked for minimum wages, his services were terminated and after termination of Petitioner and other workers' some other workers were engaged through M/s. Private Eye Security Services by first Respondent management. Petitioner was directly employed by Respondent management and Respondent management provided ESI and PF benefits. The management has changed the service condition showing the Petitioner as contract labour. Thus, the alleged contract with Sri G. Mohan Reddy is a sham and shadowy contract. The second Respondent is smoke skilled employer to the Petitioner.

12. The management has denied this allegation and has alleged that the management is autonomous body and for its security and house keeping services institute engaged contractor namely Sri G. Mohan Reddy, Respondent No.2, to provide security and house keeping service to the institute whose contract expired and a fresh contract was entered into with another contractor from 1-4-2003. Sri G. Mohan Reddy could not succeed to secure second contract. The new contractor M/s. Private Eye Security Services was lowest bidder and he was offered the contract. He did not engage the Petitioner under his control. Petitioner approached Assistant Labour Commissioner (C), who started conciliation proceeding which resulted in failure and the matter was referred to central government. Petitioner was under the direct control of Respondent No.2 who was a contractor who agreed to provide ESI and PF benefits to contract labours and minimum wages to them. It is incorrect to say that Petitioner was directly employed by the management and Sri G. Mohan Reddy was a screen between management and the Petitioner. It is alleged that the contract with Sri G. Mohan Reddy was a genuine and valid contract for providing house keeping and security services to the management whose contract lasted upto 31-3-2003. A fresh contract was entered into between M/s. Private Eye Security Services and first Respondent. It is not correct to suggest

that the contract entered into between Sri G. Mohan Reddy and first Respondent was sham and shadowy.

13. Sri G. Mohan Reddy has not filed any reply in this case. Though, there is allegation of Petitioner and counter allegation from the side of the management. The claim of Petitioner is that there was no contract between Sri G. Mohan Reddy and management whereas management alleges that there was contract and has filed documents Ex. M 1 to M 23 to prove that the contract was entered into between the management of CITD and Sri G. Mohan Reddy on 1-9-1991 for providing work force to the management. Copy of contract document, application of Sri G. Mohan Reddy and information to Sri G. Mohan Reddy in the form of Ex. M 6, M 7, M 8, M 9, M 10, M 12, M 13 and M 14 are on the record, which have been proved by witness for the management. Apart from the documentary evidence there is statement of the Petitioner on oath along with documentary evidence Ex. W1 to W4 to show that the Petitioner has worked in the CITD but the documents of the Petitioner Ex. W3 show that the Petitioner was shown as contract labour in their PF scheme papers and Sri G. Mohan Reddy has been shown as their contractor. This paper has been filed by the Petitioner himself and the Petitioner has filed his affidavit as examination in chief where it has been stated that there was no contract between Sri G. Mohan Reddy and Respondent. Even in his cross examination, Petitioner stated that his signatures were obtained at the time of issue of the cheque which is Ex. M2 filed by the Respondent. He has denied that contractor Sri G. Mohan Reddy has paid salary to him since 1999 onwards. He has further stated that he has made representation before Assistant Labour Commissioner (C) for employment under new contractor. However, management has filed application or representation of the Petitioner wherein Sri J. Mallesh is also one of the signatories to make payment of his Provident Fund which is Ex. M1 available on the record. Petitioner has accepted that Ex. M 1 bears his signature. It proves that the Petitioner has made request to the Chairman, CPF Trust for settlement of his PF dues wherein he has written that he is an employee under Sri G. Mohan Reddy, whose organization the Petitioner has left and he wants to settle his dues. This material fact has been proved by the management witness Sri J. Jaihind Babu, who stated that the Petitioner was contract labour of Sri G. Mohan Reddy, said Sri G. Mohan Reddy has entered into a contract with management to provide security and house keeping jobs to the management, contract agreement was entered into on 1-9-1991 which is on the record.

14. There is evidence that M/s. Private Eye Security Services Ltd., entered into a contract who did not engage the Petitioner as labour. Petitioner made application to the Assistant Labour Commissioner (C) to provide job under second contractor who did not employ him as such, the Petitioner approached this Tribunal. Respondent's

documents Ex.M1 to M23 clearly prove that a contract agreement was entered into between the management and Sri G. Mohan Reddy as back as in the year 1991 and renewed again from 1991 to 2003 every year and the Petitioner was engaged by Sri G. Mohan Reddy. There is no iota of evidence to prove that the Petitioner was engaged directly by the management. Not only that the Petitioner approached Assistant Labour Commissioner (C) for his employment under the second contractor M/s. Private Eye Security Services. This prove that the Petitioner was simply contract labourer. Contractor Sri G. Mohan Reddy has filed his *vakalath* in this case from Petitioner side but he has not filed petition stating that he was not contractor in CITD. Besides this, there are letters of renewal of contract Ex.M6 to M14 which prove that contract of Sri G. Mohan Reddy was renewed from time to time. This prove that Sri G. Mohan Reddy was a contractor and Petitioner was employed by Sri G. Mohan Reddy for security and house keeping jobs of the CITD.

15. It has been argued by the Learned Counsel for the Petitioner that CITD is the real employer of the Petitioner because Commissioner of Gratuity has held in the matter of these Petitioners that the Petitioners are employees of CITD and directed the management of CITD to pay the gratuity. His order has been challenged by the management before the Appellate Authority and the matter is pending before the Appellate Authority. Thus, the matter is finally settled by the competent authority that the Petitioner of this case is employee of the CITD management hence, this Tribunal has no other option but to uphold the finding of the Payment of Gratuity Authority. Against this argument of the Learned Counsel for the Petitioner, the counsel for the management has argued that the order of the Payment of Gratuity Commissioner or Controlling Authority is not final, said order has been challenged by the management before Appellate Authority and the appeal is pending before the Appellate Authority as such, it can not be said that the order of the Gratuity Authority has become final and binding on this Tribunal. I have considered this aspect of the case. Since the order of the Payment of Gratuity Authority has been challenged by management by appeal which is pending before the Appellate Authority, the matter is less pendency, i.e., pending for adjudication before the competent authority as such, this Tribunal is not bound by the finding of the Controlling Authority and Director of Payment of Gratuity.

16. Moreover, Respondent management has filed xerox copy of the statement from Employees State Insurance Corporation where Sri G. Mohan Reddy, a labour contractor is said to be the Principal employer who has deposited contribution towards the Provident Fund for Petitioner of this case in the years 2002, 2003, a detailed statement of the same has been filed as Ex.M20. There is another document filed by the Respondents Ex.M19 which is the xerox copy of the extract from the payment of wages

register. The payment has been made by Sri G. Mohan Reddy to all the Petitioners, this shows that the payment to the Petitioner was not made directly by the management of CITD but it was paid by Sri G. Mohan Reddy, the contractor. Thus, the test of relationship of employer and employee as laid down by the Hon'ble Supreme Court does not qualify in the present case. It is proved that Petitioner was employed by Sri G. Mohan Reddy who was a contractor, he made payment of the wages to the Petitioner. He deducted his PF and deposited the same with the competent authority as such, the contract between Sri G. Mohan Reddy and management is proved to be genuine and valid in this case. The Petitioner has not been able to prove that the contract of Sri G. Mohan Reddy was sham and shadowy, as such, this Tribunal has come to the conclusion that the contract between the management of CITD and Sri G. Mohan Reddy is not a sham and shadowy contract. Point No.(I) is decided accordingly.

17. Point No.(II): This Tribunal has to consider whether the demand of the Petitioner for reinstatement in the establishment is justified or not. It has been argued by the Learned Counsel for the Petitioner that Petitioner was employed by the CITD management and CITD management has disengaged the Petitioner without following due process of the law as such, the termination order of the Petitioner is illegal and Petitioner deserves to be reinstated in the service. He has further argued that the management of CITD and Sri G. Mohan Reddy entered into a shadowy contract, Sri G. Mohan Reddy was a shadow of management and principal employer is CITD. The employees were directly employed by the management as such, in view of the case law reported in (2003) 6 SCC page 528 in the matter of Bharat Heavy Electricals Ltd. Vs. State of U.P. and others, it is held that, "since there was sham and shadowy contract there was direct relationship of employer and employee between the Petitioner and the Respondent." Petitioner was an employee of the Respondent No.1 as such, his termination from the service without following the due procedure of the law is illegal. Learned Counsel for the Petitioner has argued that Hon'ble Supreme Court in the matter of BHEL Vs. State of U.P. has laid down a test for control of employer-employee relationship in cases of signed labour contracts wherein it was held that the workmen were engaged through contractor only, the employer was maintaining record of attendance and supervising their work through his own employees.

18. In the present case Petitioner has neither claimed nor adduced any evidence that the CITD management used to maintain attendance register or the management Respondent used to maintain attendance register or supervised work of the petitioner through their own employees as such, it can not be said that the Petitioner has fulfilled the test of relationship of master and servant between the Petitioner and the management. The Petitioner

has no where alleged that the management was maintaining attendance register of the Petitioner or the management's employee was supervising the work of the Petitioner. Respondent's counsel has argued that the Petitioner has not been able to come out of test successfully, which is laid down by the Hon'ble Supreme Court. I have considered this aspect of the argument of the Learned Counsel for the parties and has perused the evidence of Petitioner and the claim statement filed by the Petitioner as well. There is no mention of a single word that the maintenance of the attendance register or supervision of the work was directly done by CITD or through its own employee as such, the test laid down by Hon'ble Supreme Court is not fulfilled in the present case.

19. There is evidence on the record to prove that the Petitioner was engaged through Sri G. Mohan Reddy, his PF and ESI subscriptions were deducted and deposited by Sri G. Mohan Reddy till there was a subsisting contract between Sri G. Mohan Reddy and the CITD management and Petitioner left work after termination of the contract with Sri G. Mohan Reddy. Not only that the Petitioner approached Assistant Labour Commissioner(C) for directing the newly appointed contractor i.e., M/s. Private Eye Security Services to re-employ this Petitioner which he could not prove. It is fully proved that Petitioner was contract labour engaged by Sri G. Mohan Reddy, and his services came to be discontinued upon the expiry of the contract or termination of the contract with Sri G. Mohan Reddy and Petitioner's services cease to exist. The services of the Petitioner were neither terminated nor disengaged by the Respondent No.1 management. The Petitioner's services were simply a contract service which ceased to exist consequent upon termination of contract, as such there is no illegality or irregularity on the part of the Respondent No.1 in disengagement of the Petitioner from the services, the Petitioner is not eligible for reinstatement by the Respondent No.1 as claimed by the Petitioner. The case law cited by Learned Counsel for the Petitioner i.e., BHEL Vs. State of U.P. reported in (2003) 6 SCC page 528 is not applicable in the present case and Petitioner is not entitled for reinstatement. Point No.(II) is decided accordingly.

20. Point No. (III): The Petitioner has not been able to prove that contract with Sri G. Mohan Reddy was sham or shadowy nor has been able to prove that his services were terminated illegally by the management of CITD. As such, the Petitioner is not entitled for any relief.

21. In the result, this Tribunal has come to the conclusion that, the contract awarded by the management of Central Institute of Tool Design, Balanagar, Hyderabad to M/s. G. Mohan Reddy is not sham. The demand of Sri J. Mallesh for reinstatement in the establishment of Central Institute of Tool Design, Balanagar, Hyderabad is not justified as such, the Petitioner is not entitled for any relief. Reference is answered accordingly.

Award passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant transcribed by her corrected by me on this the 30th day of January, 2012.

VED PRAKASH GAUR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
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WW 1: Sri J. Mallesh	MWI: Sri R. Jaihind Babu
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Documents marked for the Petitioner

- Ex.W1 : Copy of ESI Card
- Ex.W2 : Copy of PF slip for the year 1991-92 & 2001-02
- Ex.W3 : Copy of payment of gratuity notice dt. 23-1-2004
- Ex.W4 : Copy of EPF contribution list

Documents marked for the Respondent

- Ex.M1 : Copy of representation of Petitioner along with other Petitioners for settlement of CPF.
- Ex.M2 : Copy of PF slip for the year 1992-1993
- Ex.M3 : Copy of representation of WW1 to ALC(C)
- Ex.M4 : Authorization by management dt. 13-4-2010
- Ex.M5 : Service contract agreement with Sri G. Mohan Reddy by R1 dt. 1-9-1991
- Ex.M6 : Copy of letter renewing the service contract dt. 16-9-92 from 1-9-92 to 31-8-93
- Ex.M7 : Office copy of letter renewing the service contract dt. 2-8-93 from 1-9-93 to 31-8-94
- Ex.M8 : Office copy of letter renewing the service contract dt. 6-9-94 from 1-9-94 to 31-8-95
- Ex.M9 : Office copy of letter renewing the service contract dt. 8-10-95 from 1-9-95 to 31-8-1996
- Ex.M10 : Office copy of letter renewing the service contract dt. 4-9-96 from 1-9-96 to 31-8-1997
- Ex.M11 : Office copy of letter renewing the service contract dt. 8-9-97 from 1-9-97 to 31-8-98
- Ex.M12 : Office copy of letter renewing the service contract dt. 8-9-98 from 1-9-98 to 31-8-99
- Ex.M13 : Office copy of letter renewing the service contract dt. 9-9-99 from 1-9-99 to 31-8-2000
- Ex.M14 : Office copy of letter renewing the service contract dt. 24-8-2001 from 1-9-2001 to 31-8-2002
- Ex.M15 : Office copy of letter terminating the service contract dt. 25-3-03 w.e.f 1-4-2003
- Ex.M16 : Original Memorandum of Settlement & Rules & Regulations

Ex.M17 : Copy of resolution dt.31-3-1970
 Ex.M18 : Copy of security contract agreement dt.22-4-2003
 Ex.M19 : Copy of Payment register - of wages
 Ex.M20 : Copy of ESI statement
 Ex.M21: Copy of Statement of Employees Pension Scheme
 Ex.M22 : Office copy of lr. No.Citd/Estd/CL/2004/953 & 954 dt.29-5-04 to ALC(C) by management.
 Ex.M23 : Office copy of lr. No.Citd/Estd/CL/2004/1123 & 1124 dt. 5-6-04 to ALC(C) by management

नई दिल्ली, 12 मार्च, 2012

का.आ. 1257.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स टाटा स्टील लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, धनबाद नं.1 के पंचाट (संदर्भ संख्या 22/09) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-3-2012 को प्राप्त हुआ था।

[फा. सं. एल-20012/42/2009-आईआर (सी-1)]
 डॉ. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 12th March, 2012

S.O. 1257.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 22/2009) of the Central Government Industrial Tribunal-cum-Labour Court -1, Dhanbad, as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Tata Steel Ltd. and their workman, which was received by the Central Government on 12-3-2012.

[F. No. L-20012/42/2009-IR (C-I)]

D. S. S. SRINIVASA RAO, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL NO. I, DHANBAD

In the matter of a reference U/s.10 (1) (d)/(2A) of Industrial Disputes Act, 1947.

Reference No. 22 of 2009

Parties : Employers in relation to the management of Tata Steel Limited.

AND

Their workman

Present : Shri H. M. Singh, Presiding Officer

APPEARANCES:

For the Employers : Shri D. K. Verma, Advocate.

For the Workman : Shri R. R. Ram, Advocate.

State : Jharkhand.

Industry : Coal.

Dated 28-2-2012

AWARD

By Order No. L-20012/42/2009-IR (CM-I) dated 9-4-2009 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :—

SCHEDULE

(i) Whether the action of the management of Sijua Colliery of M/s. Tata Steel Limited in dismissing Shri Kamal Prasad Mehta, Nitrogen Plant Operator from the services of the company w.e.f. 24-12-2007 is justified and legal ?

(ii) To what relief is the workman concerned entitled ?"

2. The case of the concerned workman is that he was working in Tata Steel Ltd. as Nitrogen Plant Operator and he was issued a Charge-Sheet dated 4/5-1-2007 illegally under Clause 19 (16) of the Company's Standing Order and after holding ex-parte enquiry he was dismissed from service w.e.f. 24-12-2007 without giving opportunity to the concerned workman which is liable to be set aside. During the enquiry no reasonable opportunity was given to the concerned workman to defend his case. The second show cause and the letter of dismissal both were received by post on the same date. He was dismissed from service within 7 days of the letter issued by the Chief, who only issued the second show cause dated 15-12-07 and the dismissal letter was signed and delivered by post on 22-12-07 dismissing him from service w.e.f. 24-12-07. After dismissal appeal was made to the G.M. but without any effect. Thereafter an industrial dispute was raised before A.L.C. (C) which ended in failure. Thereafter the present dispute has been referred to this Tribunal for adjudication.

Under the facts and circumstances, stated above, it has been prayed that the Hon'ble Tribunal be pleased to pass an award by directing the management to reinstate the concerned workman with full back wages with other consequential benefits.

3. The case of the management is that the concerned workman started absenting from his duty without permission and without satisfactory cause from 16-12-06 and continued to absent more than 10 days. The above act of the concerned workman is misconduct according to clause 19 (16) of the Company's Certified Standing Orders. He was issued a chargesheet vide Charge-sheet dated 5-1-07 which was sent to the concerned workman by

registered post. He did not submit his explanation to the charge-sheet. Since he did not submit his reply the management decided to hold domestic enquiry in respect of the aforesaid chargesheet and appointed Sri A. K. Thakur, Manager (HR/IR), Bhetalat 'A' Colliery, as Enquiry Officer to conduct domestic enquiry in accordance with the principles of natural justice and informed the workman concerned through registered post in his local address as well as permanent home address. The Enquiry Officer fixed the date of enquiry and issued several notices to him to appear before the enquiry to defend himself, but the workman concerned did not turn up before the Enquiry Officer to participate in the enquiry and as such finding no alternative the Enquiry Officer decided to hold domestic enquiry ex-parte. Thereafter the Enquiry Officer conducted domestic enquiry and submitted his report holding therein that the workman concerned guilty of the charges levelled against him. Thereafter the management issued a second show cause notice and supplied a copy of enquiry report to him to submit his explanation, but he did not submit any explanation. Thereafter, vide letter dated 22-12-07 he was dismissed from service from 24-12-07. The dismissal of the concerned workman is legal and justified.

It has been prayed that the Hon'ble Tribunal be pleased to hold that the action of the management is legal and justified and he is not entitled to any relief.

4. Both the parties have filed their respective rejoinders admitting and denying the contents of some of the paragraphs of each other's written statement.

5. The enquiry was held to be fair and proper by order dated 2-12-2011.

6. Management's documents have been marked as Exts. M-1 to M-7 and the workman's documents have been marked as Exts. W-1 to W-8 on formal proof.

7. Main argument advanced on behalf of the concerned workman is that he reported to the management for number of times to join but he was not allowed to join his duty. On 14-11-06 his attendance was not marked and duty was stopped under instruction of Sr. Manager, Sri Manik Lal Sinha. In this respect on protest he was allowed duty in other shift. Again on 16-12-06 he was stopped by the T.K. Incharge, Sri S. P. Roy from instruction of Sri Manik Lal Sinha, Sr. Manager of Sijua Colliery. On 16-12-06 he informed Manager (HR) Shri N. N. Jha at night on telephone but he told that he could do nothing. On 18-12-06 the concerned filed petition before the Manager, Sijua Colliery with a copy to G. M. (JH) as per Ext. W-3. So he was stopped from duty by the management. He moved applications to the management for joining duty.

8. Management argued that he is an absentee and proper enquiry has been conducted and he has been dismissed from service by the management and fair and proper opportunity was given to him.

As per Annexure W-11 enquiry report and proceeding have been given to him for second show cause notice on 15-12-2007. But it has not been proved by the management that notice has been served to the concerned workman.

As per Ext. W-11 only 48 hours has been given i.e. only for 2 days for his representation, but proving that the second show cause served on the concerned workman how he can give reply within 48 hours. 48 hours is not reasonable time for taking harsh action against the concerned workman i.e. dismissal from service. Moreover, it has not been proved by the management whether second show notice has been served or not to the concerned workman before passing final order as per law laid down by Hon'ble Supreme Court, reported in 1991 Current Labour (SC) page 61 in which Hon'ble Supreme Court held that supply of a copy of the enquiry report along with recommendations, if any, in the matter of proposed punishment to be inflicted would be within the rules of natural justice and the delinquent would, therefore, be entitled to the supply of a copy thereof and that the Forty Second Amendment has not brought about any change in this position. So, it shows only that the management had taken action without giving fair opportunity and without following the principles of natural justice in dismissing the concerned workman from service which is being harsh on the ground of absenteeism. The management should have given other punishment, like, stoppage of increment/break in service but not dismissal from service.

9. Considering the above facts and circumstances, I hold that the action of the management of Sijua Colliery of M/s. Tata Steel Limited in dismissing Shri Kamal Prasad Mehta, Nitrogen Plant Operator from the service of the company w.e.f. 24-12-2007 is not justified and the concerned workman is entitled to be re-instated in service with 50% back wages from the date of his dismissal till his re-instatement with other consequential benefits. The management is directed to implement the award within 30 days from the date of publication of the award.

H.M. SINGH, Presiding Officer

नई दिल्ली, 12 मार्च, 2012

का.आ. 1258.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पवन हंस हेलिकोप्टर लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, मुम्बई नं. 2 के पंचाट (संदर्भ संख्या 2/34/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-3-2012 को प्राप्त हुआ था।

[फा. सं. एल-11012/26/2004-आईआर (सी-1)]

डी. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 12th March, 2012

S.O. 1258.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 2/34/2005) of the Central Government Industrial Tribunal-cum-Labour Court -2, Mumbai as shown in the Annexure in the Industrial Dispute between the employers in relation to

the management of M/s. Pawan Hans Helicopters Ltd. and their workman, which was received by the Central Government on 12-3-2012.

[F. No. L 11012/26/2004-IR (C-I)]

D. S. S. SRINIVASA RAO, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, MUMBAI

Present

K. B. KATAKE, Presiding Officer

Reference No. CGIT -2/34 of 2005

EMPLOYERS IN RELATION TO THE MANAGEMENT OF M/S. PAWAN HANS HELICOPTERS LTD.

The General Manager
M/s. Pawan Hans Helicopters Ltd.

Juhu Airport
S.V.Road
Vile Parle (W)
Mumbai-400056.

AND

Their Workman

Shri Vivekanand S. Sonawane
C/o. Mahadeo G. Shinde,
20/2, Mohd. Jamal Chawl,
Nehru Nagar,
Kurla (E),
Mumbai 400 024.

APPEARANCES:

FOR THE EMPLOYER: Mr. Abhay Kulkarni, Advocate.

FOR THE WORKMAN: Mr. M.B. Anchan, Advocate.

Mumbai, dated the 17th January, 2012

AWARD

1. The Government of India, Ministry of Labour & Employment by its Order No.L-11012/26/2004 -IR (C-I) dated 15-12-2004 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following industrial dispute to this Tribunal for adjudication:

"Whether the action of the management of M/s. Pawan Hans Helicopters Ltd., Mumbai in terminating/ discontinuing the services of Shri Vivekanand S. Sonawane, Jr. Assistant w.e.f. 21-3-1995 is just and legal? If not, to what relief is the workman entitled?"

2. After receipt of the reference from Ministry both the parties were served with notices. In response to the

notice the second party workman has filed his statement of claim at Ex-6. According to him, he was appointed as a Jr. Assistant in Tool Crib Section of Material Department of the Pawan Hans Ltd. Mumbai from 26-4-1994. His monthly salary was Rs. 2500 upto 25-10-1994 on contract basis. The said period was extended for one more month. Again it was extended every time by one month till January 1995. The Sr. Manager, Mr. N.M. Upadhyay told the second party that his services would be terminated after 25-1-1995. The workman pointed out to him that he had completed more than 240 days continuous service and entitled for permanency. However, Mr. Upadhyay did not listen to him. Therefore, the workman filed complaint (ULP) No. 94/95 in Industrial Court, Mumbai. The Court passed ex parte interim order restraining the respondent from terminating the services of the workman. The said order was subsequently vacated. Therefore, the workman worked continuously from 24-6-1994 to 20-3-1995. He had worked for about 329 days. Thereafter they did not allow him to resume his duties. His gate pass and identity card were forcibly taken away by the Security Inspector as per the order of Mr. A.K. Srivastava. Thereafter he used to report daily at the gate for duty. However, he was not allowed to enter in the premises. His services were terminated w.e.f. 21-3-1995 without giving any notice and without assigning any reason. Mr. Srivastava assured the workman to reinstate him if he withdrew the complaint. Therefore workman had withdrawn the complaint. However, Mr. Srivastava did not keep his words. Therefore, workman filed another complaint. The said complaint was dismissed for want of jurisdiction with a liberty to approach appropriate forum. Thereafter workman approached ALC Mumbai. As conciliation failed, ALC made report to the Government. According to him he was recruited as Junior Assistant which is a permanent post. He worked for more than 240 days as a Jr. Assistant. The management had invited application for the post of Jr. Assistant. Workman had applied for the said post. However, his application was not considered. On the other hand one Ms. Kalpana & Mr. Raju Kadam were appointed in the Accounts Department and Material Department. They are junior to him. The management has not followed provisions of Section 25 H of I.D.Act. As such his retrenchment is illegal. There are vacancies in the post of Jr. Assistant due to death of Muthu Swamy and retirement of Mr. Gawai. However, they did not consider him for the appointment. Management followed unfair labour practice by terminating his services and by not appointing him. His wages of 20 days were also not paid in the month of March 1995. Therefore, the workman prays that his termination be declared illegal and invalid and he be reinstated in the service with full back-wages and continuity of service.

3. The first party management resisted the statement of claim vide its written statement Ex-9. According to them, the second party has filed identical claim in CGIT, New

Delhi bearing Ref. No. 223 of 1999. The second party cannot be allowed to continue to proceed with both the references simultaneously for the same incidence. Thus the claim is not maintainable. They further contended that the second party was appointed temporarily only for six months and he was granted extension purely on temporary basis. Therefore his appointment came to an end on expiry of the period and extended period. His appointment came to an end by efflux of time and not on account of retrenchment. His appointment was not renewed therefore it cannot be termed as retrenchment. After expiry of the time he was given extension thrice for a short interval of one month on each occasion. Therefore it cannot be called retrenchment. His appointment was temporary for a short period and on expiry of the period, it came to an end. They have denied that they have followed any unfair labour practice. They denied that Mr. Srivastava had promised to re-appoint him and therefore he has withdrawn the complaint. The complaint is not maintainable. The second party has filed the complaint to delay the matter indefinitely and to misguide the court. The complaint is false and not tenable. They denied that workman has worked continuously for 329 days without any break. They denied that workman has worked more than 240 days continuously and entitled for permanency. They denied that he was recruited against permanent post. They denied that Mr. Ghoradkar and Ms. Kalpana were junior to him. They denied all the allegations that he was retrenched illegally. They denied that he is entitled to be reinstated. Therefore they pray that the reference be dismissed with cost.

4. The second party workman vide his rejoinder Ex-11 denied that he had filed Ref 223 of 1999 at CGIT New Delhi. He repeated the other contents in his statement of claim and denied the contents in the written Statement.

5. Following are the issues framed by my Ld. Predecessor at Ex-13 for my determination. I record my findings thereon for the reasons to follow:

Sr. No.	Issues	Findings
1.	Does second party establishes his relation with first party as its employee?	Yes
2.	Does he prove that he is entitled to benefits under the provisions of Industrial Disputes Act by virtue of his nature of service rendered to first party ?	Yes
3.	Is he entitled to reinstatement with first party ?	As per final order.
4.	If yes, what relief ?	As per final order
5.	What order ?	As per final order.

REASONS

Issues Nos. 1 to 4

6. In the case at hand the fact is not disputed that in response to the advertisement, the workman has applied for the post of Junior Assistant in the Tools Crib Section of Materials Department. Fact is also not disputed that he was interviewed and was selected for the said post. MW-1 has admitted the said fact in his cross examination at Ex-17 that the workman had applied on 12-4-1994 for the post of Jr. Assistant and he was called for an interview by a telegram. He has also admitted in his cross that the workman was given appointment letter dt. 26-4-1994. The said appointment was for six months. He has also admitted in his cross that vide their letters dated 28-10-1994, 29-11-1994 and 4-1-1995 the said appointment was extended three times. This witness says in his cross that he does not know whether the workman has worked continuously for 284 days and that his services were continued till 28-3-1995 as per the order of the Industrial Court. It is a fact that the workman worked till 28-3-1995. It indicates that he has worked more than 240 days. Therefore the ld. adv. for the second party submitted that the workman was entitled to get the benefit of permanency.

7. In this respect the ld. Advocate for the first party submitted that the workman was appointed for a particular period and after expiry of the period, his services automatically came to an end. Therefore he submitted that the workman cannot claim permanency and such termination cannot be challenged. In support of his argument the ld. adv. for the first party resorted to the Rajasthan High Court ruling in Sewa Ram V/s. The Municipal Board and anr. 2005 II CLR 615 wherein the Hon'ble Court observed that;

“When appointment is made for a limited period and services of an employee are terminated on expiry of period of contract, then in such cases provisions of Section 25 F of the Act of 1947 are not attracted. In these circumstances, the ld. Labour Court has rightly held that services of petitioner came to an end of expiry of period of contract and such termination does into fall within the definition of retrenchment as defined in the Act of 1947.”

8. On the point the ld. adv. for the second party submitted that though the second party workman was appointed for a period for six months, his appointment was not for clearing any excess or casual work or to clear the arrears. On the other hand his appointment was against the clear vacancy of Jr. Assistant and he was appointed after following the due process prescribed for the appointment of a permanent post. He pointed out that fact is admitted by the management witness that applications were invited for the post. Accordingly second party

applied. He was called for interview. He was selected for the post. Thereafter he was appointed for a period of six months. He further pointed out that, though he was appointed for a period for six months and his tenure was extended thrice and thereafter i.e. after completion of more than 240 days, the management has terminated the services of the workman. In the above cited case, neither applications were invited nor any recruitment process was followed. On the other hand the workman therein had applied for the post and he was appointed merely for a particular period. After expiry of the period, his services were terminated. Furthermore in the case at hand, the worker herein was appointed to the post of Jr. Assistant which is a permanent post. The management ought to have appointed him on probation. Instead of that he was appointed for six months and thereafter his term was extended thrice for one month on each occasion. In the circumstances it is clear that he was appointed after following the recruitment process as required to appoint a permanent post. In this backdrop the ratio laid down in the above ruling is not attracted to the set of facts of the present case.

9. The Ld. Adv. for the first party in this respect further submitted that though the workman has worked more than 240 days continuously in a calendar year, he cannot claim permanency as his services came to an end after expiry of his term of services. In support of his argument the Ld. Adv. resorted to Apex Court ruling in Delhi Transport Corporation V/s. Moolchand (2009) 1 SCC (L & S) 106 wherein the Hon'ble Court held that;

“Continuance on adhoc basis for a long period did not confer any right for regularization when initial appointment itself was not made by following due process of selection.”

10. In this respect the Ld. adv. for the second party pointed out that the ratio laid down in the above ruling is also not attracted to the set of facts of present case as the second party workman herein was appointed after following the recruitment process. There was advertisement inviting applications for the post; in response thereto the workman had applied. He was called for interview. He was selected and appointed to the post of Jr. Assistant. Therefore he rightly pointed out that, it cannot be said that he was appointed without following the due process of recruitment. Thus ratio laid down in this ruling is also not attracted to the set of facts of the present case.

11. In the light of above discussion it is clear that the workman was appointed as Jr. Assistant after following the recruitment process prescribed therefor. He has worked more than 240 days. Therefore he is entitled to be confirmed in the service. Instead of that the management has terminated his services without following the retrenchment procedure and without paying the retrenchment compensation. In the circumstances, the Ld. Adv. for the

first party management has alternatively submitted that instead of passing the order of reinstatement, compensation equal to retrenchment compensation be paid to the workman. In this respect I would like to point out that contract of service cannot be specifically enforced. Therefore the law is also changed and instead of reinstatement, compensation can be awarded to the second party workman. However in the case at hand, the first party can reinstate the workman if there is vacancy and they found him suitable for the post. Thus I think it proper to give option to the first party either to reinstate the second party workman without back-wages or to pay him compensation to the tune of Rs.60,000. Thus I decide the issues nos. 1 & 2 in the affirmative and issues nos. 3 & 4 as per the final order. Accordingly, I partly allow the reference and proceed to pass the following order:

ORDER

- (i) The reference is partly allowed with no order as to cost.
- (ii) The first party is at liberty to reinstate the second party workman without any back-wages with all other benefits or it may opt to pay compensation to the tune of Rs.60,000 to the workman.
- (iii) The first party is directed to inform the workman within a month from the date of receipt of the copy of the award as to which option they would like to follow.

K.B. KATAKE, Presiding Officer

नई दिल्ली, 12 मार्च, 2012

का.आ. 1259.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्पार्सेजेट लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं.-1, नई दिल्ली के पंचाट (संदर्भ संख्या 333/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-3-2012 को प्राप्त हुआ था।

[सं. एल-11012/20/2011-आईआर (सीएम-I)]
डी. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 12th March, 2012

S.O. 1259.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 333/2011) of the Central Government Industrial Tribunal-cum-Labour Court-1, Delhi, as shown in the Annexure in the Industrial Dispute between the employers in relation to

the management of M/s. Spicejet Ltd., and their workmen, which was received by the Central Government on 12-3-2012.

[No. L 11012/20/2011-IR (CM-I)]

D. S. S. SRINIVASA RAO, Desk Officer

ANNEXURE

BEFORE DR. R. K. YADAV, PRESIDING OFFICER, CENTRAL GOVT. INDUSTRIAL TRIBUNAL NO. I, DELHI

I.D.No. 333/2011

Shri Jaipal

S/o Shri Prabhu Dayal,
R/o Village Nangal Khurd,
P.O. Kamaspur, Distt. Sonepat,
Haryana

..... Workman

Versus

M/s Spicejet Ltd.,
Cargo Complex,
IGI Airport Terminal-I,
New Delhi

..... Management

AWARD

A dispute between Shri Jaipal son of Shri Prabhu Dayal and M/s. Spice Jet was referred for adjudication to his Tribunal by the appropriate Government, which dispute was adjudicated vide award dated 14-1-2010. When Jaipal lost that dispute, he raised another dispute before the Conciliation Officer on the same facts, concealing the circumstances in which he has lost his claim and suffered the award. Notice was sent to the management by the Conciliation Officer and the former opted not to put in appearance before the latter. Since the conciliation proceedings failed, the appropriate Government referred the dispute to this Tribunal for adjudication, vide order No.L-11012/20/2011-IR(CM-I), New Delhi dated 20-10-2011, with the following terms.

"Whether the action of the management of M/s. Spice Jet, New Delhi, in terminating the services of Shri Jai Pal son of Shri Prabhu Dayal, ex-technician w.e.f. 1.1.2002 is just, fair and legal? To what relief the concerned workman is entitled to?"

2. In response to the dispute, referred above, Jai Pal filed his claim statement pleading that he was working with the management as Technician since 1994. His last drawn wages were Rs. 7000.00 P.M. He served the management with sincerity. He never gave any chance of complaint to his employer. He was appointed by the management when the business was being carried on under the name and style of M/s. Modiluft Ltd., thereafter the business was transferred to M/s. Royal Airways and lastly the name was changed as M/s. Spice Jet Ltd. No legal facilities were

provided to him by the management. When he raised his demand in that regard his services were terminated by the management on 1-1-2002 in an illegal manner. His earned wages from 1-1-2001 to 1-1-2002 were not paid. No reasons for his illegal termination were disclosed. Termination of the service was in violation of Section 25F of the Industrial Disputes Act, 1947 (in short the Act). No notice or pay in lieu thereof was given to him. Management had not provided legal facilities and as such committed unfair labor practice in violation of Sections 25T and 25U of the Act. He reported for duty many a times with a request to reinstate his service but to no avail. He served a notice on the management on 25-5-2005, but no heed was paid. He filed a claim statement before this Tribunal which was dismissed. According to him, the action of the management is liable to be deprecated. He claims that he may be reinstated his service of the management with continuity of service and full back wages.

3. The management appeared and informed this Tribunal by way of an application that the claimant had raised a dispute on the same facts, on which an earlier dispute was answered against him vide award dated 14-1-2010. The claimant had not challenged that award and it had attained finality. Now he cannot re-agitate those very facts. It has been claimed that the subsequent reference on the same facts may be answered in favour of the management.

4. Parties were heard over the matter. Shri Ramji Singh, authorized representative of the claimant, could not dispute the factum of passing of award on 14-1-2010. He concedes that the said award was published on 2-2-2010 and had attained finality, since it was not assailed by the claimant before the writ court. It has also not been disputed that the award dated 14-1-2010 was passed on a reference dated 28-8-2006 which was made by the appropriate Government between Jai Pal son of Shri Prabhu Dayal and M/s. Spice Jet Ltd., wherein the terms of reference were almost the same as are in the present dispute. Shri Nitin Sharma, authorized representative, presented his point of view on behalf of the management. I have given my careful considerations to the arguments advanced at the bar and cautiously perused the record. My findings on the issues involved in the controversy are as follows:—

5. As emerged out of the record, the appropriate Government had referred a dispute to this Tribunal for adjudication, vide order No.L-11012/26/2006-IR(M), New Delhi, dated 28-8-2006, with the following terms:

"Whether the action of the management of M/s. Modiluft/Royal Airways/Spice Jet Ltd., in terminating the services of Jai Pal son of Shri Prabhu Dayal w.e.f. 1-1-2002 is just, fair and legal? If not, to what relief the concerned workman is entitled to and from which date?"

6. The claim statement was filed by Shri Jai Pal before this Tribunal, which was demurred by the management by way of its written statement. The claimant examined himself in support of his claim. Shri Sanjay Sharma was examined on behalf of the management. Thereafter Shri Ramji Singh, authorized representative, advanced arguments on behalf of the claimant which were repelled by Shri Nitin Sharma, authorized representative of the management. The Tribunal appreciated facts and submissions made by the parties and passed an award concluding therein that air transport operations of M/s. Modiluft came to end on 19-11-1996 and airlines operations were re-launched on 23-5-1995. Under these circumstances the reference made by the appropriate Government is found to be mechanical without application of mind. It was further concluded that justification lies in the action of the management when services of the claimant were dispensed with on 19-11-1996, on account of non-renewal of permit to operate scheduled air transport services. It was announced that the claimant was not entitled to any relief. His claim was dismissed and an award was passed in that regard on 14-1-2010.

7. Award dated 14-1-2010 was published by the appropriate Government on 2-2-2010 and had become operative with effect from 4-3-2010, in pursuance of Section 17(A) of the Act.

8. Record tells that on the strength of earlier reference order, a dispute between Jaipal son of Shri Prabhu Dayal and management of M/s. Modiluft/Royal Airways, Spice Jet Ltd. was referred for adjudication to this Tribunal. Reference order makes it clear that M/s. Royal Airways/ Spice Jet Ltd. are successor in interest of M/s. Modiluft within the meaning of Section 18(3)(c) of the Act. The terms of reference raised a question as to whether act of terminating the services of Shri Jaipal w.e.f. 1-1-2002 were just, fair and legal. If it was held to be illegal, to what relief Shri Jaipal was entitled and from which date? This dispute was adjudicated in favour of the management vide award dated 14-1-2010, which came in operation w.e.f. 4-3-2010. Thus it is evident that the aforesaid award is in operation and binds the parties.

9. Question for consideration comes as to whether the appropriate Government was justified in making the present reference, during the period when award dated 14-1-2010 subsists. As the facts highlight, the subsequent reference is between the same parties on the same facts. When award dated 14-1-2010 is in force, in respect to the industrial dispute, the appropriate Government cannot refer the said dispute afresh to this Tribunal, by merely changing the phraseology of the dispute. This Tribunal will not have any jurisdiction to entertain the fresh reference in respect of the subject matter, on which the award dated 4-1-2010 binds the parties. There could be no reference when a valid

award subsists. The Tribunal cannot invoke its jurisdiction to entertain this subsequent reference made by the appropriate Government, without application of mind. In case precedents are needed then reference can be made to British India Corporation Ltd., (13 FJR 352) and Bangalore W-C-&-Mills Ltd., [1968 (1) LJ 555].

10. In view of the facts, referred above, it is crystal clear that during the pendency of award dated 14-1-2010 the appropriate Government was not competent to refer the dispute afresh for adjudication. The Tribunal cannot invoke its jurisdiction on this reference order. Consequently, the reference order is discarded, with the observation that it is incompetent. An award is, accordingly, passed. It be sent to the appropriate government for publication.

Dr. R. K. YADAV, Presiding Officer

नई दिल्ली, 12 मार्च, 2012

का.आ. 1260.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स चेयरमैन कम मैनेजिंग डायरेक्टर, विशाखापटनम स्टील प्लांट विशाखापटनम के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 131/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार द्वारा 6-3-2012 को प्राप्त हुआ था।

[सं. एल-15025/1/2012-आईआर (एम)]

जोहन तोगनो, अवर सचिव

New Delhi, the 12th March, 2012

S.O. 1260.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No.131/2004) of the Central Government Industrial Tribunal/Labour Court, Hyderabad now as shown in the Annexure in the industrial dispute between the employers in relation to the management of M/s. Chairman and Managing Director, Visakhapatnam Steel Plant, Visakhapatnam, and their workmen, which was received by the Central Government on 6-3-2012.

[No. I-15025/1/2012-IR (M)]

JOHAN TOGANO, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

PRESENT : Shri VED PRAKASH GAUR, Presiding Officer

Dated the 21st day of December, 2011

INDUSTRIAL DISPUTE L.C.I.D. No. 131/2004

(Old I.D. No. 12/2003 Transferred from Industrial
Tribunal-cum-Labour Court, Visakhapatnam)

Between:

Gondesi Pentaiah,
S/o Gondesi Appanna,
D. No. 18-8, Pata Ayyannapalem,
Pedagantyada RHC,
Visakhapatnam-530 044

....Petitioner

AND

1. The Chairman & Managing Director,
Visakhapatnam Steel Plant,
Visakhapatnam
2. Dy. General Manager, (QA & TD),
& Disciplinary Authority,
Visakhapatnam Steel Plant,
Visakhapatnam

....Respondents

Appearances :

For the Petitioner : M/s. A.V. Sambasiva Rao and
A.S. Rama Sarma, Advocates

For the Respondent : M/s. Y.V. Sanyasi Row and
Y. Ramesh, Advocates

AWARD

This petition under Sec.2 A (2) of the I.D. Act, 1947 has been filed by Sri G. Pentaiah, an ex. Employee of Visakhapatnam Steel Plant before the Industrial Tribunal cum Labour Court, Visakhapatnam transferred to this Court in view of the Government of India, Ministry of Labour's order No. H-11026/U/2001-IR(C-II) dated 18-10-2001 bearing I.T.I.D. No. 12/2003 and renumbered in this Court as L.C.I.D. No. 131/2004 challenging the legality and validity of dismissal order dated 29-11-1995 as illegal, arbitrary and against principles of natural justice.

2. It is alleged by the Petitioner that he was employed as Khalasi in the Visakhapatnam Steel Plant on 22-10-1989. He worked with utmost satisfaction to his superiors but due to his misfortune he was served with the charge sheet under clause 25.13 and clause 27.65 on the ground that the Petitioner has given false declaration in PF nomination form and pension scheme form mentioning Smt. G. Satyavathi as his wife whereas he was already married to Smt. G. Varalakshmi and has got two children from Smt. G. Varalakshmi. The marriage between Smt. G. Varalakshmi and the Petitioner was not dissolved and is still subsisting. Enquiry was ordered and enquiry was held with pre-determined notions. Enquiry Officer submitted report that Petitioner has committed misconduct and the services of Petitioner were terminated vide order dated 29-11-1999 against which an appeal was filed by the Petitioner which was dismissed. He has further alleged that Sri T. Sundar, Dy. Chief Personnel Manager has obtained the signature of the Petitioner on a paper without explaining the contents of the signed paper which was used as an application for deleting the name of Smt. Satyavathi from official records. Whereas no such

application was moved by the Petitioner. But the management has relied upon that application against the Petitioner and thus, the action of the management is illegal and arbitrary.

3. The Respondent management has filed counter statement alleging therein that the Petitioner was appointed on 24-10-1989 and was regularized on 25-2-1991. He was served with a charge sheet dated 01/04-3-1999 for violation of clause 25.13 and clause 27.65 of Certified Standing Orders of Visakhapatnam Steel Plant for giving false declaration at the time of entering into the service. The workman at the time of entering into the service declared one Smt. G. Satyavathi as his wife and gave a declaration in Attestation form meant for furnishing true particulars of the incumbent and in Form-2 declaration form under Employees' Family Pension Scheme, 1971 and in the form of appointment of Nominee in respect of P.F and gratuity towards 50% share that the said G. Satyavathi as his wife. Subsequently, it came to light that workman was married to one Smt. G. Varalakshmi and he got two children through her and marriage is in subsistence and G. Varalakshmi was alive at the time of giving declaration. Thus, the Petitioner committed misconduct of suppressing marriage to Smt. Varalakshmi and giving a false declaration that Satyavathi as his wife which is a grave misconduct. Charge sheet was issued to the Petitioner. He replied to the charge sheet vide explanation dated 16-3-1999. His explanation was not found satisfactory and enquiry was ordered. Sri R.V. Rao, Deputy Chief Personnel Manager of Visakhapatnam Steel Plant was appointed as Enquiry Officer. The Petitioner participated in enquiry proceeding the enquiry was held in presence of Petitioner.

4. Both the parties have filed their documentary evidence before the Enquiry Officer. Management has filed 4 documents Ex. ME1 to ME4. In which ME4 is an order of Family Court, Visakhapatnam rejecting the plea of the Petitioner for custody of minor children. Workman has examined two witnesses i.e., 1. Puli Bhooloka Reddy and 2. D. Appa Rao and has marked Ex. DE1 and DE2 in which Ex. DE1 is allegedly customary divorce agreement dated 10-4-1987 and Ex. DE2 is the copy of the petition in O.P. No. 102/99 said to have been filed by Petitioner workman against Smt. Varalakshmi for dissolution of the marriage. Thus, the contention of the Petitioner that his marriage with Smt. Varalakshmi was dissolved is against the documentary evidence filed by the Petitioner himself. All these papers and evidences were filed before the Enquiry Officer. After concluding the enquiry, Enquiry Officer has submitted his report holding that the charges against the Petitioner were proved. On the basis of enquiry report Petitioner was served with a notice along with copy of the enquiry report or his explanation which he submitted and after considering his explanation, the Disciplinary Authority passed the order of dismissal from service on 29-11-1999 against which Petitioner filed appeal which too

was dismissed. There is no force in the petition and deserves to be dismissed.

5. Parties were heard, primarily on the question of legality and validity of the domestic enquiry. Petitioner did not challenge the validity of the domestic enquiry as such, the domestic enquiry was held to be legal and valid on 18-2-2009 and the matter was posted for arguments under Sec. 11A of Industrial Disputes Act, 1947. Several adjournments were sought by Petitioner but neither he appeared nor his counsel appeared for arguments as such, counsel for the Respondent was heard at length who has filed written arguments as well.

6. I have gone through the pleadings of the parties and arguments advanced on behalf of the Learned Counsel for the Respondent. Learned Counsel for the Respondent has argued that the Petitioner at the time of joining of the service have a subsisting, valid and legal marriage with Smt. Varalakshmi. This material fact was suppressed by the Petitioner for which a charge sheet was issued to him. This material fact has been admitted by the Petitioner vide his appeal wherein he has written that he was married to Smt. Varalakshmi during 1979 and he got two children from Smt. Varalakshmi. At the time of employment it has become a problem for his to maintain his wife and children. Therefore, Smt. Varalakshmi left the Petitioner as such, Petitioner was on the verge of starvation and a person named Sri Bhuloka Reddy intervened and got the marriage dissolved. Thereafter he married Satyavathi. Not only that the Petitioner workman has produced Sri Bhulok Reddy, before the Enquiry Officer and also marked Ex.DE2, copy of the petition under O.P. No. 102/99 in between G. Pentaiah and G. Varalakshmi for dissolution of marriage but he has filed case under Sec. 13(1)(ia) and (ib) of Hindu Marriage Act, 1955. This prove that the Petitioner's marriage with Smt. Varalakshmi was subsisting and this compelled the Petitioner to file petition under Sec. 13(1)(ia) and (ib) of Hindu Marriage Act. Not only that management has filed a copy of order of the Family Court, Visakhapatnam in O.P. No. 30/1996 wherein G. Pentaiah filed a petition under Sec. 25 of Guardian and Wards Act for custody of minor children Padmavathi and Anand Reddy born from Smt. Varalakshmi which was rejected by the Family Court on the ground that Petitioner never cared to look after the welfare of the minor children for the last 10 years as such, he is not a fit person in whose custody the children should be there and his petition was dismissed. In that petition under Sec. 25 the Petitioner has mentioned that his marriage with Smt. Varalakshmi took place in the year 1979. All these material facts were available before the Enquiry Officer to prove that Petitioner has illegally married to Smt. Satyavathi at the time of joining or entering in the service of Visakhapatnam Steel Plant. It was also found proved that before entering into service he had another wife Smt. Satyavathi who was entered into service record as wife of workman but the marriage with Smt. Varalakshmi was not

dissolved. The document produced by the management Ex. M1, M2 and M3 prove that Petitioner had declared Smt. Satyavathi as his wife, nominated her for P.F. and Pension but the fact that Smt. Varalakshmi was his legally wedded wife, was concealed by him. On the basis of this evidence, oral and documentary, the Enquiry Officer came to the conclusion that charges of having two wives before entering into service was proved not only that the Petitioner concealed his marriage with Smt. Varalakshmi but also this material fact was concealed. Concealment of material fact of two marriages in record was a serious misconduct. On the basis of the report the Petitioner was dismissed after affording opportunity to submit his explanation against the finding of the Enquiry Officer. He has further argued that the enquiry proceeding has been held to be legal and valid and as such, this Tribunal can not now sit over appeal on its own finding regarding conduct of the domestic enquiry. He has further argued that this Court can not sit as a Court of appeal to interfere with the finding of the domestic enquiry in view of the case law reported in 2011(130) FLR 1082 SCC in the matter of State Bank of Mysore Vs. M.C. Krishnappa. He has further argued that this Tribunal has no right to interfere with the punishment imposed by the management when it has come to the conclusion that the domestic enquiry was conducted in fair and legal manner and there is no perversity in the finding of the Enquiry Officer. He has relied upon the case law reported in 2011(130) FLR 1082 SCC in the matter of State Bank of Mysore Vs. M.C. Krishnappa. He has further argued that once domestic enquiry is held to be legal and valid, the Industrial Tribunal or Labour Court has no power to interfere with the punishment under Sec. 11A of Industrial Disputes Act, 1947.

7. I have considered the above argument of Learned Counsel for the Respondent and have gone through the entire record.

8. This Tribunal has to consider the following points:—

(I) Whether the order of dismissal is illegal, improper and unjustified?

(II) To what relief if any is the worker entitled to?

9. Point No. (I) : It is a fact that this Tribunal on 18-2-2009 has held that the domestic enquiry conducted by the management to be legal and valid. So in view of the case law reported in 2007(115) FLR 745 A.P. in the matter of Depot Manager, APSRTC Vs Mohd. Ghani and 2007 (7) SCC 206 Bhongaigaon Refinery & Petrochemicals Ltd. and others Vs. Girish Chandra Sarma, this court cannot interfere with the finding of the Enquiry Officer and it cannot sit over the appeal in the matter of domestic enquiry. Thus, in view of the case law reported in 2011(130) FLR 1082 SCC in the matter of State Bank of Mysore Vs. M.C. Krishnappa, since punishment is the primary function of the management and the Petitioner workman has not been

able to prove before this Tribunal that the domestic enquiry conducted by the management is either invalid, illegal, improper and violative of principles of natural justice, the misconduct committed by the Petitioner is of very serious nature, that he concealed his marriage with Smt. Varalakshmi while entering into service. The marriage with Smt. Varalakshmi was not dissolved even in the year 1999 because the Petitioner himself has filed petition No. 102/1999 under Sec. 13(1)(ia) and (ib) of Hindu Marriage Act or dissolution of his marriage with Smt. Varalakshmi before Family Court on 30-3-1999. This document produced by the Petitioner during course of enquiry is strong proof of subsisting marriage of Petitioner with Smt. Varalakshmi and concealment of this material fact from his employer and making incorrect declaration or false declaration in form 2(1) and the paper of family for nomination for P.F. and Pension. Thus, the factum of commission of the misconduct was proved by the management before the Enquiry Officer which the Petitioner could not contradict before this Tribunal as well, as such on the ground of seriousness of the misconduct, the punishment of dismissal from service has been imposed by the management. I feel that this Tribunal has got no other option but to hold the punishment imposed by the management. There is no illegality or impropriety in the order passed by management. Point No. (I) is decided accordingly.

10. Point No. (II) : This Tribunal has come to the conclusion that the Petitioner has not been able to prove before this Tribunal that the punishment imposed upon him is excessive or arbitrary. This Tribunal is also of the view that in the light of the misconduct committed by the Petitioner, the punishment imposed upon him is neither excessive nor disproportionate and Petitioner is not entitled for any relief. Point No. (II) is decided accordingly.

11. From what have been discussed above this Tribunal is of the definite opinion that there is no ground for interference with the punishment. Petitioner is not entitled for any relief and petition deserves to be dismissed and it is dismissed. Hence, this award.

Award passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant transcribed by her corrected by me on this the 21st day of December, 2011.

VED PRAKASH GAUR, Presiding Officer

Appendix of evidence

Witnesses examined for
the Petitioner

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

Witnesses examined for
the Respondent

NIL

नई दिल्ली, 12 मार्च, 2012
का.आ. 1261.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स (1) ओ एन जी सी लिमिटेड, (2) मैसर्स रविराज एण्ड कम्पनी मुम्बई, (3) मैसर्स जी. बी. माहतरे पनवेल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, मुम्बई-2 के पंचाट (संदर्भ संख्या 1/2009) को प्रकाशित करती है जो केन्द्रीय सरकार को 6-3-2012 को प्राप्त हुआ था।

[सं. एल-15025/1/2012-आईआर (एम)]

जोहन तोपनो, अवार सचिव

New Delhi, the 12th March, 2012

S.O. 1261.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 1/2009) of the Central Government Industrial Tribunal/Labour Court, Mumbai-2 now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of (1) M/s. ONGC Ltd., (2) M/s. Raviraj and Co., (Mumbai), (3) M/s. G. B. Mhatre (Panvel. MS) and their workman, which was received by the Central Government on 6-3-2012.

[No. L-15025/1/2012-IR (M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, MUMBAI

PRESENT : K. B. KATAKE, Presiding Officer

COMPLAINT NO. CGIT-2/1 of 2009

IN

REF. CGIT-2/65 OF 2005

Nhava Sheva Port and General Workers Union
Port Trust Kamgar Sadan
Nawab Tank Road, Mazgaon
Mumbai-400010

.....Complainant

V/s.

1. Oil & Natural Gas Corporation Ltd.
O/o The Group General Manager, HR-ER HRO
ONGC, Mumbai Region, IR Section
4th Floor, Exchange Plaza, NSE Building
Bandra Kurla Complex
Bandra (E), Mumbai-400051.
2. M/s. Raviraj & Co.,
RH-5, Gimmy Park, 1, Sector-17, Phase-I
Nerul, Navi Mumbai.
3. M/s. G. B. Mhatre,
At and Post Nhava, Distt. Raigad,
Tal. Panvel, (MS) 410206.Opposite Parties

Appearances :

For the Complainant : Mr. J. H. Sawant,
Advocate.

For the Opposite Party No. 1 : Mr. G.D. Talreja,
Representative.

For the Opposite Party No. 2 : No appearance.

For the Opposite Party No. 3 : No appearance.

Mumbai, dated the 19th January, 2012

AWARD

1. The Nhava Sheva Port & General Workers Union has filed this complaint against Oil & Natural Gas Corporation Ltd. & Ors. under Section 33-A of Industrial Disputes Act for violation of Section 33 of I.D. Act.

2. According to the complainant, the opposite party has contravened the provisions under Section 33 of the Industrial Disputes Act, 1947 by altering the service conditions of the two workmen Shri D.G. Bondre and Shri Jagjivan Patil during the pendency of Ref. CGIT-2/65 of 2005. It is contended that these two workmen were refused work, wages and consequential benefits w.e.f. 16-6-2008. The complainant therefore prays to direct the opposite party to allow the two workmen to resume their duties and pay their wages along with other consequential benefits.

3. Opposite party No.1 resisted the complaint by filing its written statement Ex-4. According to the opposite party there is no employer-employee relationship between them and the concerned workmen and therefore alleged termination of service or change in conditions of service does not arise. They pray that the complaint be dismissed with costs. Thereafter the matter was fixed for evidence of the complainant.

4. Meanwhile on the request of complainant, matter was kept in the lokadalat. The matter is settled, thus the advocate for the complainant by his purshis Ex-13 prayed to dispose of this complaint. Accordingly, vide Ex-14, matter was placed before this Tribunal for orders. Hence the order :

ORDER

The matter is settled in Lokadalat. The complaint is dismissed for want of prosecution vide Ex-13 and 14.

K. B. KATAKE, Presiding Officer

नई दिल्ली, 12 मार्च, 2012

का.आ. 1262.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स (1) चेयरमैन भारतीय जीवन बीमा निगम मुम्बई, (2) डिविजनल मैनेजर भारतीय जीवन बीमा निगम, लखनऊ, (3) ब्रांच मैनेजर, जीवन बीमा

निगम, लखीमपुर खारी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, लखनऊ के पंचात (संदर्भ संख्या 1/2010) को प्रकाशित करती है जो केन्द्रीय सरकार को 6-3-2012 को प्राप्त हुआ था।

[सं. एल-15025/1/2012-आईआर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 12th March, 2012

S.O. 1262.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 1/2010) of the Central Government Industrial Tribunal/Labour Court, Lucknow now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of (1) M/s. Chairman LIC of India (Mumbai), (2) Divi Manager LIC of India (Lucknow), (3) Branch Manager LIC of India (Lakhimpur Kheri) and their workmen, which was received by the Central Government on 6-3-2012.

[No. L-15025/1/2012-IR (M)]

JOHAN TOPNO, Under Secy.

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW****PRESENT**

Dr. MANJU NIGAM, Presiding Officer

I.D. No. 01/2010

BETWEEN

Shri Shivendra Prakash Dixit S/o Shri Ram Sewak Dixit
R/o Village-Balamau, District-Hardoi.

AND**1. Chairman**

Life Insurance Corporation of India
Bombay.

2. Divisional Manager,

Life Insurance Corporation of India
Hazratganj, Lucknow

3. Branch Manager

Life Insurance Corporation of India
Golagokharanath, Lakhimpur Kheri.

AWARD

1. The present statement of claim has been filed by the workman, Shivendra Prakash Dixit, directly before this Tribunal, in pursuance to the orders dated 14-10-2009 of Hon'ble High Court Lucknow Bench, Lucknow in Writ

Petition No. 309 (SS) of 1992 Shivendra Prakash Dixit vs. Life Insurance Corporation of India & others; wherein Hon'ble High Court issued following directions :

"If the petitioner approaches the Industrial Tribunal within one month from today, the Industrial Tribunal is directed to decide the matter on merit, in accordance with law within a maximum period of six months, from the date of presentation of a certified copy of this order, as the matter pertains to the year 1992."

Accordingly, the workman filed the present industrial dispute before this Tribunal and the same was ordered to be registered and issuance of notices to the opposite parties vide order dated 14-12-2009.

2. The case of the workman, Shivendra Prakash Dixit, in brief, is that he was appointed as Assistant by the opposite party No. 3 on 26-03-1990 on a consolidated salary of Rs. 1200 for a fix period of 40 days and on expiry of said 40 day his services were extended, without any written extension order. It has been alleged by the workman that his services have been terminated orally w.e.f. 18-12-1991 without complying with the provisions contained in section 25 F, even though he worked for more than 240 days in the preceding calendar year. Accordingly, the workman has prayed that he be reinstated with consequential benefits including full back wages.

3. The management of the Life Insurance Corporation has denied the claim of the workman by filing its written statement wherein it has submitted that the workman was never appointed following due procedure, prescribed for appointment of Assistants in the LIC and no power is conferred to any authority to make the continuance in service for an indefinite period. However, he was appointed as a purely temporary assistant for a temporary nature of work and his services came to an end automatically after expiry of the fixed period for which he was appointed. In para 06 it has specifically mentioned that the workman worked with the Corporation for 75 days only and he was paid accordingly, as such, the provisions of the Industrial Disputes Act are not attracted in case of the workman. Thus, the management of the LIC has prayed that the claim of the workman be rejected without any relief to him.

4. After filing of written statement, 17-09-2010 was fixed and the workman was called upon to file rejoinder; but no rejoinder was filed on several dates; accordingly, 07-04-2011 was fixed for workman's evidence vide order dated 28-03-2011. When the workman did not file its evidence on 07-04-2011, 02-05-2011, 09-06-2011, 25-07-2011 and 15-09-2011 the next date 03-11-2011 for filing management's evidence vide order dated 15-09-2011.

On 03-11-2011 the management filed its evidence and 21-11-2011 was fixed for cross-examination of the management's witness. When the workman did not turn up to cross-examine the management witness on 21-11-2011,

22-12-2011 and 18-01-2012 the case was reserved for award in view of the directions of the Hon'ble High Court and long pendency of the matter as it belongs to the year 1992.

5. It was the case of the workman that he has been appointed as Assistant on 26-03-1990 and worked as such till 18-12-1991 when his services has been terminated without any notice or retrenchment compensation in violation to the provisions contained in Section 25 F of the Industrial Disputes Act, 1947 in spite of the fact he worked for more than 240 days, in the preceding calander year. The workman has filed photocopy of appointment letter, issued to him and another letter dated 06-06-91 addressed to some Shri Subhash Chandra Shukla; but has neither filed its original nor has summoned the same from the management. He has also not entered the witness box to substantiate his version.

8. Per contra, the management of the LIC has admitted his termed appointment; but has disputed his claim regarding working for more than 240 days. It has specifically pleaded that the workman worked for more than 75 days with them and has submitted that the workman was never appointed after following the due procedure provided for the Assistants in the Corporation. The management has filed its evidence in support of its pleadings.

9. I have scanned entire evidence on record. The workman vide para 9 & 10 of his statement of claim has pleaded that he worked for more than 240 days in preceding calendar year and his services cannot be terminated except complying the provisions of Section 25 F of the Industrial Disputes Act, 1947 and accordingly has prayed that he be reinstated with consequential benefits; but for this, it is incumbent upon the workman to lead an evidence to the effect that he actually worked for 240 days in the year preceding his alleged termination as observed by Hon'ble Apex Court in (2002) 3 SCC 25 Range Forest Officer vs. S. T. Hadimani. Further, the workman's prayer, for reinstatement with consequential benefits, is not permissible in light of latest pronouncements of Hon'ble High Court & Apex Court that in case it is held that the services of a workman were terminated in violation of provisions of Section 25 F, the workman shall be entitled to compensation only, instead of reinstatement.

10. It is well settled that if a party challenges the legality of order, the burden lies upon him to prove illegality of the order and if no evidence is produced by the party, invoking jurisdiction of the court, must fail. In the present case burden was on the workman to set out the grounds to challenge the validity of the order dated 18-12-1991 of the management; whereby the services of the workman was terminated; and to prove that the action of the management in terminating his services was illegal. It was the case of the workman that his services have been terminated, illegally; without complying provisions of Section 25 F of the I.D. Act, 1947. This claim has been denied by the management; therefore, it was for the workman to lead evidence to show that services have been terminated, by

the management; without complying mandatory provisions of the I.D. Act.

11. In 2008 (118) FLR 1164 M/s. Uptron Powertronics Employees' Union, Ghaziabad through its Secretary vs. Presiding Officer, Labour Court (II), Ghaziabad & others, Hon'ble High Court relied upon the law settled by the Apex Court in 1979 (39) FLR 70 (SC) Sanker Chakravarti vs. Britannia Biscuit Co. Ltd., 1979 (39) FLR 70 (SC) V.K. Raj Industries v. Labour Court and others, 1984 (49) FLR 38 Airtex Private Limited v. State of U.P. and others and 1996 (74) FLR 2004 (Alld.) Meritech India Ltd. v. State of U.P. and others; wherein it was observed by the Apex Court:

"that in absence of any evidence led by or on behalf of the workman the reference is bound to be answered by the Court against the workman. In such a situation it is not necessary for the employers to lead any evidence at all. The obligation to lead evidence to establish an allegation made by a party is on the party making the allegation. The test would be, who would fail if no evidence is led."

12. In the present case the workman has not turned to substantiate his case by way of filing any oral evidence. Mere pleadings are no substitute for proof. It was obligatory on the part of workman to come forward with the case that the workman's services have been terminated, illegally; without complying provisions of Section 25 F of the I.D. Act, 1947; but the workman failed to forward any evidence in support of its claim, as it did not turn up for filing its evidence before this Tribunal. There is no reliable material for recording findings that the alleged injustice was done to the workman or the action of the management of Life Insurance Corporation of India in terminating the services of Shivendera Prakash Dixit was illegal and unjustified.

13. Accordingly, the industrial dispute is adjudicated against the workman, and as such, I come to the conclusion that the workman, Shivendera Prakash Dixit is not entitled to any of the relief(s) claimed by him.

14. Award as above.

LUCKNOW.

23-01-2012.

Dr. MANJU NIGAM, Presiding Officer
ई दिल्ली, 13 मार्च, 2012

का.आ. 1263.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट (संदर्भ संख्या 180/2003) को प्रकाशित करती है जो केन्द्रीय सरकार को 13-3-2012 को प्राप्त हुआ था।

[सं. एल-12012/152/2003-आईआर (बी-1)]

रमेश सिंह, अवर सचिव

New Delhi, the 13th March, 2012

S.O. 1263.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 180/03) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of State Bank of India, and their workmen, received by the Central Government on 13-03-2012.

[F. No. L-12012/152/2003-IR (B-I)]

RAMESH SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUS- TRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/180/2003

SHRI MOHD. SHAKIR HASAN, Presiding Officer

Shri Ramavtar Nigam,
S/o Shri Ramvishal Nigam,
Behind Maria Mata Convent School,
Near Tiwari Building, Chobe Colony,
Chattarpur (MP) ... Workman

Versus

The Assistant General Manager,
Region-3, State Bank of India,
Divisional Office, Moti Market,
Jayendraganj, . . . Management
Gwalior.

AWARD

Passed on this 13th day of February, 2012

1. The Government of India, Ministry of Labour vide its Notification No.L-12012/152/2003-IR(B-I), dated 14-11-2003 has referred the following dispute for adjudication by this tribunal :—

"क्या सहायक महाप्रबंधक, क्षेत्र 3, भारतीय स्टेट बैंक, ग्वालियर म. प्र. द्वारा श्री रामअवतार निगम, भूपू. क्लर्क-कम-कैशियर को दिनांक 30-06-99 को मेडिकल जांच में आयोग्य पाकर अनिवार्य सेवानिवृत दिए जाने की कार्यवाही एवं बैंक की नीति के अंतर्गत मेडीकल जांच में आयोग्य होने वाले कर्मचारी श्री रामअवतार निगम के आधिकारिक अनुकूल नियुक्ति न दिए जाने की कार्यवाही न्यायोचित है ? यदि नहीं, तो संबंधित कर्मकार किस अनुतोष का हकदार है" ?

2. The case of the workman in short is that he was appointed on a substantive post of clerk-cum-cashier on 11-7-1980 and posted at Bijawar Branch of the State Bank of India (in short SBI). Subsequently he was transferred to Chhatarpur Branch in the year 1984. Being a senior most clerk-cum-cashier he was placed to work as "Teller" which was an allowance carrying post. He was working with utmost honesty and full satisfaction to the superior. He received a letter on 26-6-99 of the Branch Manager directing

him to be present in the regional office, Gwalior on 29-6-99 for medical examination. His medical examination was held on 30-6-99 by a private medical doctor and a Medical Officer of the Bank without any medical equipments and the result of the medical examination was also not communicated. He received an order dated 30-6-99 by registered post on 5-7-99 whereby he was compulsorily retired from service on medical ground. It is stated that no notice nor any opportunity was given to the workman before retiring him from service. It is stated that the action of the management is illegal. The Bank has failed to obey their own circulars in respect of medical examination. He examined himself by Dr. Ahluwalia, eye specialist who reported on 2-7-99 stating that the workman can do table work. It is stated that Section 47 of "Persons with Disabilities (Equal Opportunities, Protection of Rights and full Participation) Act, 1995 provides protection to the disable person in employment. It is arbitrary and unjustified action of the management in retiring him rather than providing him alternative job under the provision of Section 47 of the Act, 1995. There is a policy of the Bank that if the employee retires premature on medical ground, the dependant of the employee be considered for appointment on compassionate ground. The workman applied for compassionate appointment to the dependant but the compassionate appointment to the dependant was not provided. It is submitted that the reference be answered in favour of the workman.

3. The management appeared and filed Written Statement to contest the reference. The case of the management, inter alia, is that admittedly he was appointed on the substantive post of clerk-cum-cashier on 11-7-1980 and was transferred to the Chattarpur Branch of the Bank. The workman was senior most clerk -cum-cashier and as per rule, he was posted as "Teller" w.e.f. 13-11-95 which was allowance carrying post within the cadre. In the Inspection and Audit Report dated 25-1-1997 it was pointed out that the workman had developed acute deficiency in both eyes known as Retinatis-Pigmentosa and unable to see anything beyond one foot. Another audit report dated 30-6-1998 also indicated the same irregularity. Thereafter the Medical Board was constituted in accordance with circular dated 17-3-1983 for his medical examination. After his medical examination on 30-6-99 the Medical Board opined that he is permanently incapacitated due to diminution of vision to less than one foot and is accordingly unfit to continue in service. The Competent Authority passed the order dated 1-7-99 whereby he was compulsorily retired from service on the medical grounds at the closure of the business on 30-6-99 and order was communicated to the workman on 2-7-99 by registered post. He had been paid gratuity and other retiral dues admissible under the Rules. The compulsory retirement on medical ground is not punitive in nature for which show cause notice or any explanation was not required and there is no violation of the principle of natural justice. The further case is that the

State Bank of India is a body corporate constituted under the State Bank of India Act, 1955 having its Central Office at Mumbai and branches all over country. It has got its own Rules and Regulations. The "Persons with Disabilities (Equal Opportunities Protection of Rights and Full Participation) Act, 1955" has no applicability in the instance case as he was declared unfit to continue the services in the Bank by the Medical Board. It is stated that no application for appointment on compassionate ground for his dependant was received within the prescribed 60 days after the cessation from his service as per circular No. PER/ No. 78 of 1982 dated 11-11-82). The action of the management is not erroneous and illegal. It is submitted that the workman is not entitled to any relief.

4. On the pleadings of the parties, the following issues are framed for adjudication—

- (i) Whether the action of the management of compulsory retirement to Shri Ramavtar Nigam, clerk-cum-cashier w.e.f. 30-6-99 on medical ground is legal and justified ?
- (ii) Whether the rejection of the compassionate appointment of the dependant of Shri Ramavtar Nigam retired on medical ground as per policy by the management is justified?
- (iii) To what relief the workman is entitled ?

5. The following facts appear to be admitted by both the parties.

1. The workman Shri Ramavtar Nigam was appointed on substantive post as clerk-cum-cashier on 11-7-1980.
2. He was subsequently transferred to Chhatarpur Branch of SBI where he was entrusted with the work of Teller on the basis of senior most clerk-cum-cashier as per rule.
3. He was medically examined on 30-6-99 by the doctors at the instance of the management and was found medically unfit to continue in service.
4. He was compulsorily retired vide order dated 1-7-99 from service on medical grounds at the closure of the business on 30-6-99.
5. He was not served with any show cause notice before passing the order of compulsory retirement.
6. His dependant was not provided any employment on compassionate ground as per existing policy.

6. Issue No. I

The workman Shri Ramavtar Nigam is examined in the case. He has admitted that he was examined on 30-6-99 by the doctors. He has stated that his vision has been deteriorated as such he cannot cross the road without anyone's help and also feels difficulty in reading and writing.

This shows and corroborates the facts that he had developed acute deficiency in both the eyes and is unable to see even short distance. He has stated that he had been compulsorily retired from service on medical grounds but the order was passed by incompetent authority. The said order is filed by the management which is marked as Exhibit M/6. It appears that he was retired on the ground of medically unfit on the approval of Assistant General Manager, Gwalior who was competent authority. He has further stated that he was examined by the private doctor and Medical Officer of the Bank who examined him without any equipments and Medical Board was not constituted in accordance with the circular dated 17-3-83. The management has filed the said circular dated 17-3-83 which is marked as Exhibit M/1. The said circular shows that Medical Board consists of three medical officers namely Bank's Medical Officer, Civil Surgeon or Medical Officer of the Government Hospital and a specialist. The report of the Medical Board is filed which is marked as Exhibit M/4. The said report shows that the workman was examined by the Medical Board on 30-6-99 Dr. J.C.Garg, Sr. Medical Officer of the Bank, Dr. Satish Srivastava, Consultant Ophthalmologist and Dr. R.P. Sharma, Civil Surgeon, Gwalior were the members of the Board. They had came to the finding that his ailment was Ratinitis Pigmentosa BE which was not curable and was in progressive. It was also opined that he was permanently incapacitated and was unfit to continue to remain in the service of the Bank. This clearly shows that the Medical Board was rightly constituted according to circular and he was found medically unfit.

7. The management has examined two witnesses in support of the case. The management witness Shri Rajesh Gupta is Regional Manager in SBI. He has proved the documents. He has stated that Shri Nigam was retired on medical ground. Another management witness Dr. J.C. Garg is Sr. Medical Officer of the Bank. He was also member of the Medical Board. He has supported that the Board was constituted according to circular and the workman was found medically unfit to work in the Bank. Thus the evidence of the management also shows that the workman Shri Ramavtar Nigam was found medically unfit on account of permanently incapacitated due to diminution of vision to less than one foot.

8. Now the important question is as to whether the action of the management to compulsory retire him from services of the Bank on the ground of medically unfit is legal and justified. According to the workman, the persons with Disabilities (Equal Opportunities, Protection of Right and Full Participation) Act, 1995 provides protection to the disable person in employment. It is stated that Section 47 of the said Act, 1995 provides that the workman be kept on a supernumerary post until a suitable post is available or he attains the age of superannuation. On the other hand, the management has contended that the State Bank of India is a Body corporate constituted under the State Bank of

India Act, 1955. It has got its own Rules and Regulations. As such the Persons with Disabilities Act, 1995 is not applicable in this case. The learned counsel for the management has also argued that the definition "establishment" as has been defined in the Act, does not cover the State Bank of India and therefore Section 47 of the Act, 1995 is not applicable in the instance case.

9. The "establishment" is defined in the Disabilities Act, 1995 in Section 2(k) and it runs as follows—

"establishment" means a corporation established by or under a Central, Provincial or State Act, or an authority or a body owned or controlled or aided by the Government or a local authority or a Government company as defined in Section 617 of the Companies Act, 1956 an include Departments of a Government."

The definition of "establishment" is to be examined in order to determine the applicability of the Act. There are four types of establishment which come under the purview of the Act. These are (1) Corporations, (2) Authorities of Government, (3) Local Authority and (4) Government company. According to the pleadings of the management, the SBI is a Body corporate constituted under the State Bank of India Act, 1955 having its Central Office at Mumbai and branches all over the country. This proves that the management Bank is established under an Act. Admittedly it is a corporate body established under the Central Act by the Central Government. This shows that it comes within the definition of "establishment" under Section 2K of the Disability Act, 1995. Thus this Act is applicable in the instance case. The learned counsel has also relied a decision reported in 2006-II-LLJ 671, Satish Prabhakar Padhye Vs. Union of India and others.

10. It is an admitted fact that the workman was declared medically unfit by the Medical Board for continuing in service on account of permanently incapacitated due to diminution of vision to less than one foot. It is also an admitted fact that the workman had not applied for his compulsory retirement rather it was the decision of the management to compulsory retire the workman Shri Ramavtar Nigam. It is also an admitted fact that the workman acquired disability during his service. It is clear that Section 47 of the Disability Act, 1995 protects and safeguards such employee. Section 47 of the Act, 1995 runs as follows—

"47. Non-discrimination in Government Employment.

(i) No establishment shall dispense with or reduce in rank, an employee, after acquiring disability is not suitable for the post he was holding could be shifted to some other post with the same pay scale and service benefits:

Provided that, if an employee, after acquiring

disability is not suitable for the post he was holding could be shifted to some other post with the same pay scale and service benefits :

Provided further that if it is not possible to adjust the employee against any post, he may be kept on a supernumerary post until a suitable post is available or he attains the age of superannuation, whichever is earlier.

- (2) No promotion shall be denied to a person merely on the ground of his disability :

Provided that the appropriate Government may, having regard to the type of work carried on in any establishment, by notification and subject to such conditions, if any, as may be specified in such notification, exempt any establishment from the provisions of this section"

This shows that if the employee became permanently disable during the tenure of his service, he has to keep on a supernumerary post until suitable post is available or he attains the age of superannuation, whichever is earlier. This shows that the action of the management to compulsorily retire him after the closure of the business on 30-6-99 is not justified.

11. The learned counsel for the workman has also relied a decision reported in 2008 (I16) FLR 627, Bhagwan Dass and another Vrs. Punjab State Electricity Board wherein the Hon'ble Apex Court has held that—

"In light of the discussions made above, the action of the Board in terminating the service of the disabled employee (appellant No.1) with effect from March 21, 1997 must be held to be bad and illegal. In view of the provisions of Section 47 of the Act, the appellant must be deemed to be in service and he would be entitled to all service benefits including annual increments and promotions etc. till the date of his retirement. The amount of terminal benefits paid to him should be adjusted against the amount of his salary from March 22, 1997 till date. If any balance remains, that should be adjusted in easy monthly installments from his future salary. The appellant shall continue in service till his date of superannuation according to the service records. He should be reinstated and all due payments, after adjustments as directed, should be made to him within six weeks from the date of presentation of a copy of the judgment before the Secretary of the Board."

The learned counsel for the management has also relied the decision reported in 2003(96)FLR 990 Kunal Singh Vrs. Union of India and another. Thus the order of compulsory retirement of the workman after the closure of the business on 30-6-99 is bad and illegal in view of the

provision of Section 47 of the Persons with Disabilities (Equal Opportunities, Protection of Rights Full Participation) Act, 1995. This issue is decided in favour of the workman and against the management.

12. Issue No. II

According to workman, he applied for compassionate appointment to his dependant on compulsory retirement on medical ground as has been provided by the policy of the Bank but his application was rejected. On the other hand, the management has contended that no application was received within the period of 60 days after cessation from his service as has been prescribed in the policy. The workman Shri Ramavtar has admitted in his evidence that he had not filed any application for appointment on compassionate ground during the period of 1999 to 2002. This is clear that the application was not filed within 60 days. The management has filed the scheme for appointment on compassionate grounds of the dependents of the employees retired on medical grounds. The said scheme is marked as Exhibit M/I (A). Clause 3(ii) of the said scheme runs as follows:

"clause 3: Time limit for submitting application-

- (ii) sixty days from the date of retirement in respect of employees who retire on medical grounds."

Thus it is clear that the cutout period is 60 days only for applying for appointment of the dependant on compassionate ground. Admittedly the application was not submitted within the prescribed period and therefore the management had rightly rejected the application for appointment of the dependent of the workman on compassionate ground. Accordingly this issue is answered.

13. Issue No. III

Considering the discussion made above, it is evident that the action of the management to compulsorily retire the workman Shri Ramawtar Nigam from service vide letter dated 30-6-99 (Exhibit M/6) is bad in law and is set aside. In view of the Section 47 of the Act, 1995 the workman is deemed to be in service and he would be entitled to all benefits including annual increments and promotion etc. till the date of retirement. The amount of retirement benefits paid to him should be adjusted against the amount of his arrear salary. If any balance remains thereafter, the same should be adjusted in easy instalments but not more than 30% of the gross salary. Accordingly the reference is answered.

14. In the result, the award is passed without any order to costs.

15. Let the copies of the award be sent to the Government of India, Ministry of Labour and Employment as per rules.

MOHD. SHAKIR HASAN, Presiding Officer

नई दिल्ली, 13 मार्च, 2012

का.आ. 1264.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण भुवनेश्वर के पंचाट (संदर्भ संख्या 34/2008) को प्रकाशित करती है जो केन्द्रीय सरकार को 13-3-2012 को प्राप्त हुआ था।

[फा. सं. एल-12012/23/2008-आईआर (बी-1)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 13th March, 2012

S.O. 1264.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 34/2008) of the Central Govt. Indus. Tribunal-cum-Labour Court, Bhubaneswar as shown in the Annexure, in the industrial dispute between the management of State Bank of India, and their workmen, received by the Central Government on 13-3-2012

[F. No. L-12012/23/2008-IR (B-I)]

RAMESH SINGH, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT BHUBANESWAR

PRESENT:

Shri J. SRIVASTAVA, Presiding Officer, C.G.I.T.-cum-Labour Court, Bhubaneswar.

Industrial Dispute Case No. 34/2008

Date of Passing Award—28th February, 2012

BETWEEN:

The Assistant General Manager,
State Bank of India, Bhubaneswar
Main Branch, Bhubaneswar,
Dist. Khurda (Orissa). 1st Party-Management

AND

Their workman Sri Dibasa Kumar Khuntia,
Qrs. No. VR-5/1, Kharvela Nagar, Unit-3,
Bhubaneswar, (Orissa) 2nd Party-Workman

APPEARANCES:

Shri Alok Das, For the 1st Party-
Authorized Representative Management.
None. For the 2nd Party-
Workman

AWARD

The Government of India in the Ministry of Labour has referred the present dispute existing between the employers in relation to the Management of State Bank of

India, Bhubaneswar and their workman under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act vide their Letter No. L-12012/23/2008/IR (B-I), dated 2-06-2008 to this Tribunal for adjudication to the following effect :

Whether the action of the management of State Bank of India, Main Branch, Bhubaneswar in terminating the services of Sri Dibas Kumar Khuntia w.e.f. 30-9-2004, is fair legal and justified ? To what relief is the workman concerned entitled ?

2. The 2nd Party-Workman has filed his statement of claim alleging that he had joined his services as a Messenger on temporary/casual/daily wage basis in November, 1989 after succeeding in interview. He was assured to get permanent appointment order after one year or on completion of 240 days' work in a calendar year, but despite completion of several years of continuous satisfactory service and putting in more than 240 days' work in each year he was not regularized, instead terminated and refused employment from 30-9-2004 by the 1st Party-Management without any written communication or payment of compensation. The 1st Party-Management in refusing employment to him violated all principles of natural justice and mandatory provisions of Section 25-F of the Industrial Disputes Act, 1947. He therefore brought the matter into the notice of the C.G.M. and C.D.O. of the State Bank of India, L.H.O. Bhubaneswar. But on hearing nothing, he raised an industrial dispute before the Regional Labour Commissioner (Central) vide his letter dated 21-2-2005. Conciliation proceedings were started, but they failed and thereupon a failure report was submitted to the Government and the Government made the present reference. He is thus entitled to get full back wages and reinstatement with continuity of service with effect from 30-9-2004.

3. The 1st Party-Management in its reply through written statement has stated that the present dispute is misleading and misconceived in as much as the 2nd Party-workman had already raised a similar dispute along with 124 other workers through the State Bank of India Temporary 4th Grade Employees Union before the Assistant Labour Commissioner (Central), Bhubaneswar challenging their alleged termination of service by the 1st Party-Management. In the said dispute the failure report was sent by the Asst. Labour Commissioner (Central), Bhubaneswar to the Ministry of Labour who in turn referred the matter to this Tribunal for adjudication and the same is pending before this Tribunal being I.D. Case No. 7/2007. The name of the 2nd Party-workman is appearing at S1. No. 4 in Annexure-A to the said reference. Thus, raising a common dispute for same cause of action and again raising individual dispute for same relief is nothing but an abuse of the process of law and amounts to multiplicity of

litigation. The Asst. Labour Commissioner (Central) while conciliating the individual disputes disregarded the direction of the Deputy Chief Labour Commissioner (Central) not to take any further action on the separate disputes raised by the same workers for the same cause of action. The allegation of the 2nd Party-workman that he was discontinued from service on 30-9-2004 and was signing bogus vouchers is not correct. He was engaged intermittently on temporary/daily wage basis due to exigencies of work. It is denied that he had joined the Bank in November, 1989 and was performing the duty, which is regular and perennial in nature. It is further denied that he was performing his duties with all sincerity and honesty and to the best of satisfaction of the Authority. The 2nd Party-workman has never completed several years of continuous service in the Bank nor he has completed 240 days of continuous service in any calendar year preceding the date of his alleged termination. In order to give an opportunity for permanent absorption to the ex-temporary employees/daily wagers in the Bank in view of the various settlements entered into between the All India State Bank of India Staff Federation and the Management of the State Bank of India all eligible persons were called for interview. The 2nd Party-workman was also called for an interview along with other eligible persons in the year 1993. As he was not found successful in the said interview he could not be absorbed in the Bank's service. The Union or the 2nd Party-workman has never challenged the implementation of the settlement which has now gained finality. It is further submitted that some of the wait-listed candidates, who could not, be absorbed in the Bank's service due to expiry of the panel on 31st March, 1997 filed Writ Petitions before the Hon'ble High Court of Orissa. But the Hon'ble High Court Orissa by a common order dated 15-5-1998 passed in O.J.C. No. 2787/1997 dismissed a batch of writ Petitions and upheld the action of the Management of the Bank. This order of the Hon'ble High Court was also upheld by the Hon'ble Supreme Court of India in S.L.P. No. CC-3082/1999. Hence the above matter has attained finality and cannot be re-agitated. Since the services of Sri Khuntia were terminated on 11th August, 1998 his claim has become stale by raising the dispute after lapse of a period of 8 years. It is a settled principle of law that delay destroys the right to remedy. Thus raising the present dispute after 8 years of alleged termination is liable to be rejected.

4. On the pleadings of the parties following issues were framed :—

ISSUES

1. Whether the present reference of the individual workman during the pendency of the I.D. Case No. 7/2007 before this Tribunal on the same issue is legal and justified ?
2. Whether the workman has worked for more than

240 days as enumerated under Section 25-F of the Industrial Disputes Act ?

3. Whether the action of the Management of State Bank of India, Main Branch, Bhubaneswar in terminating the services of Shri Dibas Kumar Khuntia with effect from 30-9-2004 without complying the provisions of the I.D. Act, 1947 is legal and justified?
4. To what relief is the workman concerned entitled ?
5. The 2nd Party-workman despite giving sufficient opportunity did not produce any evidence either oral or documentary in support of his claim, and willingly kept himself out of the proceedings at the stage of evidence by absenting himself or his Union representative.
6. The 1st Party-Management has adduced the oral evidence of Shri Abhay Kumar Das as M.W.-I and filed documents marked as Ext.-A to Ext.-J in refutation of the claim of the 2nd Party-workman.

FINDINGS

ISSUE NO. 1

7. A specific plea has been raised by the 1st Party-Management that a group of 125 employees including the 2nd Party-workman had already raised a similar dispute in I.D. Case No. 7/2007 before this Tribunal for the same relief which is pending for adjudication. The dispute as referred to in I.D. Case No. 7/2007 is given below for comparison with the dispute in the present case—

Whether the action of the Management of State Bank of India, Orissa Circle, Bhubaneswar in not considering the case of 125 workmen whose details are in Annexure-A for re-employment as per Section 25(H) of Industrial Disputes Act, 1947 is legal and justified? If not, what relief the workmen are entitled to?

8. The name of the 2nd party-workman appears at St. No. 4 in Annexure-A to the above reference. In both the cases the matter of disengagement or so called retrenchment is involved to be considered in one or the other way and the relief claimed is with regard to re-employment. But challenge has been made more specifically against the termination of service of the 2nd Party-workman in the present case while in I.D. Case No. 7/2007 prayer has been made with regard to consideration of the case of 125 workmen for re-employment as per Section 25-H of the Industrial Disputes Act, 1947. In fact, in the latter case the workmen have submitted or virtually surrendered to their cessation of employment or alleged termination, whereas in the present case they have challenged their termination on facts and law. Virtually in the present case validity and legality of the alleged termination has to be tested at the alter of facts and legal propositions. Therefore it cannot be said that issues involved in both the cases are same. This case can proceed despite pendency of I.D. Case

No. 7/2007 and the present reference by the individual workman pending for adjudication is maintainable being legal and justified. This issue is therefore decided in the affirmative and against the 1st Party-Management.

ISSUE No. 2

9. The onus to prove that the 2nd Party-workman has completed one year or 240 days of continuous service during a period of 12 calendar months preceding the date of his alleged termination or disengagement from service lies on him, but the 2nd Party-workman has not adduced any evidence either oral or documentary in support of his contention. He has only alleged in his statement of claim that he was appointed in November, 1989 and worked till 30-9-2004 on temporary/causal/daily wage basis, but he has not filed any certificate or reliable document showing the break-up of year-wise service rendered by him under the 1st Party-Management during the above period. The 1st Party-Management on the other hand, has alleged that the 2nd Party-workman was engaged intermittently on temporary/daily wage basis due to exigencies of work and he had never completed 240 days continuous service in a calendar year. M.W.-1 Shri Abhay Kumar Das in his statement before the Court has stated that "the disputant was working intermittently for few days in our branch on daily wage basis in exigencies. He had not completed 240 days of continuous and uninterrupted service preceding the alleged date of the termination". He has denied the allegation that the workman was discontinued with effect from 30-9-2004, but stated that "In-fact the workman left the branch from working since June, 1990". Thus he had not worked after June, 1990. The 2nd Party-workman has to disprove the evidence led by the 1st Party-Management, but he has not come before the Court to give evidence. A temporary or daily wage worker has no right to claim reinstatement and particularly when such an employee had not worked for 240 days continuously during a period of 12 calendar months preceding the date of his so-called termination. Thus he is not entitled to get benefit of Section 25-F of the Industrial Disputes Act, 1947. This issue is hereby decided against the 2nd Party-workman for failing to prove that he had worked for 240 days continuously during a period of 12 calendar months preceding the date of his disengagement or alleged termination from service.

ISSUE No. 3

10. Since the 2nd Party-workman could not prove that he had rendered 240 days continuous service under the 1st Party-Management during a period of 12 calendar months preceding the date of his disengagement or alleged termination, he is not entitled for re-employment even in case of his alleged illegal and arbitrary termination. Moreover, he was a temporary/causal/daily wage employee. His services can be terminated at any time without assigning any cause by the 1st Party-Management. He has no legal right to be retained in service for the

extended period, if he was appointed for a certain period or when no time is specified. The 2nd Party-workman has not filed any letter of appointment or proof of having rendered service under the 1st Party-Management for a specified period against a regular post. The 1st Party-Management has further alleged that in time of exigencies only the 2nd Party-workman was employed. It means that with the end of exigencies his job also came to an end. In view of the matter the action of the management of State Bank of India, Main Branch, Bhubaneswar in terminating the services of Sri Dibasa Kumar Khuntia with effect from the alleged date of his termination is fair, legal and justified. This issue is accordingly decided in the affirmative and against the 2nd Party-workman.

ISSUE No. 4

11. In view of the findings recorded above under Issue Nos. 2 and 3 the 2nd Party-workman is not entitled to any relief whatsoever claimed.

12. Reference is answered accordingly.

Dictated and Corrected by me.

JITENDRA SRIVASTAVA, Presiding Officer

नई दिल्ली, 13 मार्च, 2012

का.आ. 1265.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, मुम्बई के पंचाट (संदर्भ संख्या 42/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-3-2012 को प्राप्त हुआ था।

[सं. एल-41011/35/2002-आईआर (बी-1)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 13th March, 2012

S.O. 1265.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 42/2003) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 1, Mumbai as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 13-03-2012:

[No. - L-41011/35/2002-IR(B-I)]

RAMESH SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. I,

MUMBAI

JUSTICE G.S. SARRAF,

Presiding Officer

REFERENCE No. CGIT-1/42 OF 2003

Parties: Employers in relation to the management of
 Western Railway
 And
 Their Workman (B. M. Shukla)

APPEARANCES:

For the Management : Shri.B.K.Dehade,
 Management representative.
 For the Union : Shri. A. M. Mishra, President,
 Indian Railway Technical
 Staff Association.
 State : Maharashtra

Mumbai, dated the 31st Day of January 2012

AWARD

1. This is a reference made by the Central Government in exercise of its powers under clause (d) of sub section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947. The terms of reference given in the schedule are as follows:

Whether the action of the management of Western Railway Administration, Mumbai Division, Mumbai by not paying an amount of Rs.39,600.00 (DCRG) and withholding the pension in respect of Shri B. M. Shukla, retired employee, is justified? If not, what relief he is entitled to?

2. According to the statement of claim filed by the workman he retired from railway service on 30-6-1994 as Chargeman-B (adhoc) Diesel Loco Shed, Bandra, Bombay Division after putting in 33 years of service. At the time of retirement he was holding the post of master craftsman on regular basis in the pay scale of 1400—2300. He was allotted a railway quarter No. 128/1, Kherwadi, Bandra (East) Mumbai-400051. His son is also in railway service. He and his son filed an original application in Central Administrative Tribunal, Bombay for regularisation of the said quarter in the name of the son. This prayer was rejected. However, he remained in the said quarter during the pendency of the proceedings before Central Administrative Tribunal, Bombay in the hope that the said quarter would be allotted to his son and vacated the quarter on 13-11-1996. He has not been paid his DCRG though by judgement dt. 29-6-1995 Central Administrative Tribunal, Bombay had ordered and directed the management to pay the DCRG with interest. Moreover, the management wrote to the Central Bank of India, from where he draws his pension, that an amount of Rs. 26,676 was still to be recovered from him and that the same should be recovered from his pension. According to the statement of claim no amount can be recovered from his pension as well as DCRG as they are protected. He has, therefore, prayed that the management be directed to pay to him the amount of DCRG

of Rs. 39,600 and to repay Rs. 26,676 recovered from his pension.

3. According to the written statement the workman has litigated before other forums and, therefore, he cannot raise the same issue before this Tribunal as it is barred by principles of res judicata.

4. The workman has filed rejoinder.

5. The workman has filed his affidavit and he has been cross examined by the first party. The first party has filed the affidavit of Nandkumar Parab who has been cross-examined by representative of the Union.

6. Heard Shri B. K. Dehade, representative of the first party and Shri A. M. Mishra, representative of the second party.

7. There are three issues namely; withholding of pension, non-payment of DCRG amount of Rs. 39,600 and illegal recovery of Rs. 26,676 from the pension or d.a. paid to the workman.

8. As regards the first issue, the workman admits in his statement of claim as well as his affidavit that he is getting regular superannuation pension.

9. As regards the second issue, in addition to what the workman has pleaded in his statement of claim, he states in para No. 9 of his affidavit as under:

I say that I filed an original application before Ld. Central Administrative Tribunal, Bombay No.1109 of 1994 seeking payment of my gratuity (DCRG) to which I was entitled as of right on the date of my retirement. Hon'ble CAT-Bombay pleased to allow the original application no. 1109 of 1994 in my favour directing the Western Railway Management Respondents in OA No. 1109/94 to make the payment of gratuity with interest. I say that in spite of judgement of Ld.CAT-Bombay I have not been paid my gratuity. I say that the judgement in OA No. 1109 of 1994 of Ld. CAT Bombay achieved finality being unchallenged by the management before Hon'ble Supreme Court/High Court. I say that I filed a Misc. Petition for execution but Hon'ble CAT rejected same on the ground of limitation.

Since the judgement of CAT, Mumbai has attained finality, therefore, the workman is barred from raising the same issue before this Tribunal.

10. As regards the third issue the workman filed a writ petition before the Bombay High Court being the writ petition No. 2820 of 1998 with a prayer that the first party be restrained from making any recovery from the pension or dearness relief on pension of the workman which was disposed of by the High Court by order dt. 1-12-1998 and the workman was directed to move Central Administrative Tribunal for that purpose. In view of the above order of the Honourable High Court the workman is free to move the

Central Administrative Tribunal but he cannot raise the dispute before this Tribunal.

11. In view of the above discussion it is clear that the workman is not entitled to any relief.

An award is passed accordingly.

JUSTICE G. S. SARAF, Presiding Officer

नई दिल्ली, 13 मार्च, 2012

का.आ. 1266.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार टाटा स्टील लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, धनबाद नं. 2 के पंचाट (संदर्भ संख्या 23/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-3-2012 को प्राप्त हुआ था।

[फा. सं. एल-20012/22/2008-आईआर (सी-I)]

डॉ. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 13th March, 2012

S.O. 1266.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 23/2008) of the Central Government Industrial Tribunal-cum-Labour Court-2, Dhanbad, as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Tata Steel Ltd., and their workman, which was received by the Central Government on 13-3-2012

[F. No. L-20012/22/2008-IR(C-I)]

D. S. S. SRINIVASA RAO, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (No. 2) AT DHANBAD PRESENT

SHRI KISHORI RAM, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947.

Reference No. 23 of 2008

PARTIES:

Employers in relation to the management of M/s. Tata Steel Ltd., Jamadoba, Dhanbad and their workman.

APPEARANCES:

On behalf of the workman : None

On behalf of the management: Mr. D. K. Verma, Ld. Advocate

State : Jharkhand

Industry : Coal

Dated, Dhanbad, the 28th Feb., 2012.

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/22/08-IR (CM-I) dated 12-3-2008.

SCHEDULE

“Whether the action of the Management of Sijua Colliery of M/s. Tata Steel Ltd., in dismissing the services of Shri Ramdeo Jaiswara, Winding Engine Operator w.e.f. 03-01-2004 is justified and legal? If not to what relief is the concerned workman entitled?”

2. None represented workman Ramdeo Jaiswara nor written statement filed despite three Regd. notices used to him on his address noted in the Ref. Order. But Mr. D. K. Verma the Ld. Advocate for the management is present.

Perusal of the case record manifests the case all along pending for filing written statement on behalf of the workman since 24-3-2011 till today, for which three Regd. notices dt. 24-1-2011, 17-3-2011 and 5-7-2011 were issued. The conduct of the workman shows his unwillingness to pursue his case. Under these circumstances proceeding with the case is useless and wastage of time of the Tribunal. Hence the case is closed and accordingly an order of no dispute is passed.

KISHORI RAM, Presiding Officer

नई दिल्ली, 13 मार्च, 2012

का.आ. 1267.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी.सी.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, धनबाद नं. 2 के पंचाट (संदर्भ संख्या 19/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-3-2012 को प्राप्त हुआ था।

[फा. सं. एल-20012/158/2007-आईआर (सी-I)]

डॉ. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 13th March, 2012

S.O. 1267.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref No. 19/2008) of the Central Government Industrial Tribunal-cum-Labour Court-2, Dhanbad, as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCL, and their workman, which was received by the Central Government on 13-3-2012.

[F. No. L-20012/158/2007-IR(C-I)]

D. S. S. SRINIVASA RAO, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL (NO.2) AT DHANBAD
PRESENT**

Shri Kishori Ram, Presiding Officer

In the matter of an Industrial Dispute under Section 10 (1)(d) of the I.D. Act, 1947.

Reference No. 19 of 2008

Parties: Employers in relation to the management of Bhowra (North) Colliery of E.J. Area, Bhowra of M/s. BCCL and their workman.

Appearances :

On behalf of the workman : None

On behalf of the management : Mr. U.N. Lal, Ld.
Advocate

State : Jharkhand Industry: Coal

Dated, Dhanbad the 28th Feb. 2012

AWARD

The Government of India Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No.L-20012/158/07-IR (CM-I) dated 3-3-2008.

SCHEDULE

"Whether the action of the Management of Bhowra (N) UG Mines of M/s BCCL in dismissing the services of Shri Ganesh Bouri, M/Loader w.e.f. 09-06-2005 is justified and legal? If not to what relief is the concerned workman entitled?"

2. None represented workman the Sponsoring Union/workman nor did file written statement by the workman despite issuance of two notices dt. 24-1-2011 and 24-3-2011 respectively and one Regd. Show Cause Notice dt 19-8-2011 on the address of the union concerned under its order of Reference whereas Mr. U.N. Lal, Ld. Advocate for the Management is present.

On perusal of the case record, it transpires that the case has been pending for filing written statement by the sponsoring union/workman since 24-3-2011 against which two notices and one Show Cause notice were served upon. The conduct of the sponsoring union/workman points reluctance for further proceedings with the case on its part as they miserably failed to turn up. Under these circumstances it meaningless to carry it on for the period uncertain, which would ultimately mean sheer wastage of time and energy of the Tribunal. Hence the case is closed and accordingly an order of no dispute as no existence of any dispute is passed.

KISHORI RAM, Presiding Officer

नई दिल्ली, 13 मार्च, 2012

का.आ. 1268.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) को धारा 17 के अनुसरण में, केन्द्रीय सरकार सी. सी. लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/प्रम न्यायालय, धनबाद नं.-1 के पंचाट (संदर्भ संख्या 163/1994) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-3-2012 को प्राप्त हुआ था।

[फा. सं. एल-20012/48/1994-आई आर (सी-1)]

डॉ.एस.एस. श्रीनिवास राव, डेस्क अधिकारा

New Delhi, the 13th March, 2012

S.O. 1268.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 163/1994) of the Central Govt. Industrial Tribunal-cum-Labour Court-1, Dhanbad, as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. C. C. Ltd., and their workmen, which was received by the Central Government on 13-3-2012.

[No. L-20012/48/1994-IR (C-I)]

D.S.S. SRINIVASA RAO, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. I, DHANBAD**

**In the matter of reference U/S. 10(1)(d)(2A) of the
Industrial Disputes Act, 1947**

Reference No. 163 of 1994

Parties :

Employers in relation to the management of Kedla Underground Project of M/s. C.C. Ltd.

And

Their Workmen.

Present : Shri H. M. Singh, Presiding Officer.

Appearances :

For the Employers : Shri D.K. Verma, Advocate

For the Workman : Shri D. Mukherjee, Secretary,
Bihar Colliery Kamgar Union

State : Jharkhand Industry : Coal

Dated, the 29th February, 2012

AWARD

By Order No. L-20012-(48)/94-IR (Coal-I) dated 25/27-7-1994 the Central Government in the Ministry of Labour is, in exercise of the powers conferred by clause (d) of section (1) and sub-section (2A) of Section 10 of

the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

"Whether the action of the management of Kedla Under Ground Project P.O. Kedla, Dist. Hazaribagh in terminating the services of Shri Digwa Bhuiya w.e.f. 31-3-93 is justified? If not, to what relief the workman is entitled?"

2. The case of the concerned workman, Digwa Bhuiya, is that he had been working as a permanent workman at Kedla underground Project. He was absenting from duty due to his illness w.e.f. 20-3-1993. During the aforesaid period he remained under the treatment of Company's Hospital. Due to seriousness of his disease he was referred to Jupli Hospital, Kedla. The Medical Officer referred him to Central Hospital, Naisarai. Since his illness was not recovered fully he was advised to take the help of Outside Medical Officer and accordingly he remained under the treatment of outside Doctor. In spite of the aforesaid fact the management issued him a false and frivolous chargesheet on the alleged ground of absenting from duty without taking any leave. The management completed the empty formality through a biased and prejudiced Enquiry Officer. The enquiry was conducted in violation of the principles of natural justice. The copy of the enquiry report and proceedings were not supplied to the concerned workman before imposing the punishment of dismissal w.e.f. 31-3-93. He represented before the management against the illegal and arbitrary dismissal order but without any effect. Thereafter an industrial dispute was raised before the A.L.C. (C), Hazaribagh, which ended in failure and the Government of India, Ministry of Labour referred the dispute for adjudication to this Tribunal. It has been submitted that the action of the management in terminating the service of the concerned workman w.e.f. 31-3-93 is not justified.

Under such circumstances, it has been prayed that the Hon'ble Tribunal be pleased to pass an award in favour of the workman by directing the management to reinstate the concerned workman with full back wages.

3. The case of the management is that the concerned workman started absenting from the duties w.e.f. 20-3-92 without permission or information and without obtaining any leave. The management issued a charge-sheet dated 27-8-92 to the concerned workman alleging commission of the misconduct of continuous absence without permission and without satisfactory cause for more than ten days under Clause 17(1)(n) of the Model Standing Order applicable to Kedla Underground Project. The charge-sheet was sent to his permanent home address by registered post and his local address by ordinary post. But he did not submit any reply. The management appointed Enquiry Officer, Shri B.L. Bodder, who issued notice of enquiry dated 14/15-1-1993 fixing the date of enquiry on 22-1-93 and a copy of the enquiry notice was sent to him by registered post at his permanent address vide postal receipt dated 15-1-93 and

another copy was sent under certificate of posting at his permanent address. The third copy was sent at his local address, but he did not attend the enquiry. Second enquiry notice dated 27-1-93/6-2-93 fixing date of enquiry on 10-2-93 was issued to the concerned workman. A copy of the said letter was sent to him permanent home address by registered post and another copy under certificate of posting and the third copy was sent at his local address. But he did not attend enquiry on 10-2-93. The Enquiry Officer issued the third letter of enquiry dated 12/19-3-93 fixing the date of enquiry on 23-3-93. One copy of the letter was sent by registered post at his home address and another copy under certificate of posting at his permanent address and the third copy was also sent at his local address. In spite of that he did not attend the enquiry on 23-3-93. But did not apply for adjournment of the enquiry on any date. The Enquiry Officer conducted the enquiry ex parte on 23-3-93 and submitted his enquiry report dated 25-3-93 holding the concerned workman guilty of the charge levelled against him. After examining the enquiry report and proceedings the Project Officer, who is the Agent under the Mines Act issued the Order of dismissal dated 30-3-1993 to the concerned workman. Dismissal of the concerned workman is legal and justified.

It has been prayed that the Tribunal be pleased to pass the Award holding that the action of the management in terminating the services of the concerned workman was legal and justified and the concerned workman is not entitled to any relief.

4. Both the parties have filed their respective rejoinders admitting and denying the contents of some of the paragraphs of each other's written statement.

5. The enquiry was held to be fair and proper by order dated 5-10-99.

6. The management produced MW-1, D. C. Kumar, who proved documents as Exts. M-1 to M-9.

The concerned workman has not examined himself.

7. Main argument advanced on behalf of the concerned workman is that he was ill from 20-3-1993 and got treatment of the company's hospital. When he was serious he was referred to Jupli Hospital, Kedla. After that he was referred to Central Hospital, Naisarai. When his illness was not recovered fully he got treatment from outside Doctor and thereafter he was dismissed by the management w.e.f. 31-3-93 on the ground of absenting from duty without any leave.

The management argued that the concerned workman committed misconduct of continuous absence without permission and without satisfactory cause for more than 10 days under Clause 17(1)(n) of the Model Standing Order applicable to Kedla Underground Project. Enquiry was conducted by the Enquiry Officer who sent enquiry notice dated 14/15-1-93 fixing the date of enquiry on 22-1-93 to the concerned workman by registered post, another copy

नई दिल्ली, 13 मार्च, 2012

का.आ. 1269.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी. सी. सी. एल एवं के प्रबंधतात्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, धनबाद नं.-2 के पंचाट (संदर्भ संख्या 14/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-3-2012 को प्राप्त हुआ था।

[सं. एल-20012/132/2004-आई आर (सी-1)]

डी.एस.एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 13th March, 2012

S.O. 1269.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 14/2005) of the Central Govt. Industrial Tribunal-cum-Labour Court-2, Dhanbad, as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. B. C. C. L., and their workman, which was received by the Central Government on 13-3-2012.

[No. L-20012/132/2004-IR(C-I)]

D.S.S. SRINIVASARAO, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, AT DHANBAD

Present:

Shri Kishori Ram,
Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947

Reference No. 14 of 2005

Parties : Employers in relation to the management of Bastacolla Area of M/s. BCCL and their workman.

Aparances :

On behalf of the workman : Mr. D. Mukherjee, Ld.
Advocate

On the behalf of the management : Mr. U. N. Lal, Ld.
Advocate

State : Jharkhand. Industry : Coal

Dated, Dhanbad, the 23rd February, 2012

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/132/04-IR(C-I) dt. 17-12-2004.

SCHEDULE

“Whether the action of the management of Bastacolla Colliery of M/s. BCCL in dismissing Sri Jagan Manjhi, Ex-M/Loader from the services of the company vide order dated 21/25-4-2003 is

justified? If not, to what relief is the concerned workman entitled?”

2. The case of the sponsoring union is that workman Jagan Manjhi had been unblemishly working as a permanent minor/loader at Bastacolla Colliery since long, but due to his serious illness, he began to absent from duty w.e.f. 24-9-2001, for which he had justifiably informed the management and requested for sanction of his leave. On recovery, he reported with medical report to the management for his duty, but he was not allowed to resume his duty on the ground of the chargesheet already issued to him for the alleged absence from duty. He replied to the chargesheet, justifying his absence with categorical denials. Though his explanation was satisfactory, irregular departmental enquiry was conducted by the management through biased Enquiry Officer, and in the enquiry neither its procedure was explained nor he was given proper opportunity for his defence. Even charge was unproved, yet he was dismissed by the unauthorised person w.e.f. 21/25-4-2003. On its representation of it by him and the union, the management did not take any positive steps for it. The industrial dispute raised by the union failed in its reconciliation before the A.L.C., due to anti labour attitude of the management, it resulted in reference for adjudication. The action of the Management in dismissal of the workman is illegal, vindictive and unjustified.

3. In response to it, the case of the management with categorical denial is that the workman was issued the chargesheet dtd. 31-10-2002 for his unauthorised absence w.e.f. 2/4th Sept., 2001 as per clause 26.1.2002 of the Certified Standing Orders of the Company. Since his reply dt. 5-11-2000 was found unsatisfactory, so the Enquiry Officer and Presenting Officer were appointed for the enquiry into it as per the order dtd. 15/18-11-2002 of the Disciplinary Authority. On due notices the workman presented, and the Enquiry Officer read out the contents of the Enquiry which were not acceptable to him. He did not want to take the assistance of any co-worker in the enquiry. The statements of Management witness and the workman were recorded. Moreover the attendances of the workman 130,89 and 81 (upto Sept., 2001) in the last three years 1999, 2000 and 2001 were respectively found meagre he was issued second show cause as the letter dtd. 01/05-4-2003 of the Management. The Disciplinary Authority thereafter as per letter dtd. 21/25-4-2003 imposed upon him the penalty of dismissal as per letter dtd. 21/25-4-2003. Previously, the workman was issued a chargesheet for unauthorised absence, after enquiry thereof, he was allowed to resume his duty with confirmation of the period 3-7-1989 to 7-7-89 as confirmed suspension as a measure of penalty. Another Chargesheet dt. 12/16-9-96 was issued to him for his unauthorised absence from 12-8-1996. He was though given sufficient opportunity to improve, but he did not improve in his attendance. He was also given reasonable opportunity as per principle of natural justice in the enquiry.

4. The management pleased in its rejoinder that the workman was a habitual absentee. He never intimated the management of the last absenteeism. He was given ample opportunity for his defence in the Enquiry which was held properly in accordance with the principle of natural justice. The dismissal of the workman was quite legal as per policy of the Company for his misconduct.

FINDING WITH THE REASONING

5. In this case, in course of the evidence of the Management at Preliminary point, Mr. D. Mukherjee, the Representative of the workman filed a petition and accepted the fairness of the enquiry. So no infirmity was found in the domestic enquiry conducted by the management as per order dtd. 1-9-2011 of the Tribunal. Accordingly on consensus of both the Ld. Counsels for the respective parties, all the original documents of the Enquiry were marked as Ext. M-1 to M-9 for due consideration.

Hence, the case directly came up for hearing argument on merits.

6. Mr. D. Mukherjee, the Ld. Advocate for the Union/ workman submits that there is no proof of habitual absenteism against the workman, and that his alleged absence in the face of his reasonable explained cause does not amount to misconduct, so it is solicited that justice should be tempered with mercy in favour of the workman.

Whereas the contention of Mr. U.N. Lal, Ld. Advocate for the management is that the workman was unauthorised absent from his duty just as either on two occasion, even then his no improvement so he was duly punished with his dismissal for his aforesaid gross misconduct.

7. On appreciation of the admitted materials (the documents of the Enquiry proceeding marked Ext. M-7 to M-9 of the management under Sec. II (A) of the Industrial Disputes Act 1947, I find the following facts:

- (i) The charge sheet dtd. 31-10-2002 (Ext. M-1) relates only to the unauthorised absence of the workman from his duty since 24-9-2001 as a misconduct under clause No. 26.1.1 of the Certified Standing Order, but not to his such previous conduct as impliedly noted in the Note Sheet dtd. 5-3-2003 (Ext. M-8).
- (ii) The statement of the workman as illiterate as stated before the Enquiry Officer justifies his aforesaid absence from duty continuously for frequent ill health since 24-9-2001 as contrasted with different dates noted in his reply (Ext. M-2). But the Enquiry Report (Ext. M-6) refers to "Due to some family problems" in his statement as recorded by the Enquiry Officer.
- (iii) Despite second Show Cause notice dtd. 02/5-4-2003 (Ext. M-7), the workman did not submit his explanation, so the Disciplinary Authority concerned/the Project Officer of Bastacolla Colliery having satisfied with the Enquiry

Report dismissed him with immediate effect as per letter dtd. 21/25-4-2003.

From the aforesaid findings it stands quite clear that the dismissal of the illiterate workman for the aforesaid misconduct of absenteeism under adjudication was shockingly disproportionate to the nature of his admitted misconduct in issue. Hence the order of dismissal appears to be unjust. Hence it is liable to set aside. Accordingly it is held that the action of the management of Bastacolla Colliery of M/s. BCCL in dismissal of the workman Jagan Manjhi, Ex-M/Loader from the service of the Company as per order dtd. 21/25-4-2003 is illegally and unjustified in eye of law and facts as well.

The workman is entitled to his reinstatement in his service but without back wages. The management is directed to implement the Award within one month from the date of receipt of its publication in the Gazette of India.

KISHORI RAM, Presiding Officer

नई दिल्ली, 13 मार्च, 2012

का.आ. 1270.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी.सी.एल. एवं के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, धनबाद नं.-2 के पंचाट (संदर्भ संख्या 07/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-3-2012 को प्राप्त हुआ था।

[सं. एल-20012/178/2004-आई आर (सी-1)]

डी.एस.एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 13th March, 2012

S.O. 1270.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 07/2005) of the Central Govt. Industrial Tribunal-cum-Labour Court-2, Dhanbad, as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. B.C.C. L. and their workmen, which was received by the Central Government on 13-3-2012.

[No. L-20012/178/2004-IR (C-1)]

D.S.S. SRINIVASARAO, Desk Officer

ANNEXURE BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

Present :

Shri Kishori Ram,
Presiding Officer

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947

Reference No. 7 of 2005

Parties : Employers in relation to the management of Western Washery Zone of M/s. BCCL and their workman.

In view of the aforesaid facts and circumstances the case is closed and accordingly it is hereby ordered as settlement award with the terms and conditions of the Form 'H' as an integral part of it.

ORDER

Let an "Award" be and same is passed as per above. Form 'H' containing terms and conditions to form part of the Award. Send the copies of the award to the Govt. of India, Ministry of Labour, New Delhi for information and needful. The reference is accordingly disposed of.

KISHORI RAM, Presiding Officer/Link Officer
Form -"H"

(See Rule 58 under Industrial Dispute (Central Rules, 1957)

Memorandum of Settlement between the Management of M/s. Eastern Coalfields Limited and their workman, Shri Kalicharan Majhi, R.B. Crew, U. Man No. 692508 of Land 2 Incline, Jhanjra Project Colliery.

Parties : Representing the Management :

(1) Shri Debasis Das,
Personnel Manager (IC)
Jhanjra Area.

(2) Shri Nazrul Islam,
Sr. Personnel Officer,
Jhanjra Project Colliery.

Representing the workmar/Union

1. Shri Kalicharan Majhi,
Ex-R.B. Crew

Short Recital of the case :—

Shri Kalicharan Majhi, R.B. Crew, U. Man No. 692508 of 1 & 2 Incline Jhanjra Project Colliery, was absenting from his duty w.e.f. 23-12-2006 without permission or information to the satisfaction of the Management. After issuing charge-sheet under Clause 26.23 and 26.29 of Certified Standing Order, and after conducting domestic enquiry, and completing all formalities, and also considering his past attendance and service record, the management terminated Shri Kalicharan Majhi from the service of the company vide letter No. CGM/JNR/PER/08/1917 dated 7/9-1-2008.

After his dismissal, General Secretary, K.M.C. raised an I.D. before the Asstt. Labour Commissioner (C) Raniganj at Durgapur, against the alleged and illegal dismissal vide Ref. No. KMC/JM/2D/08/167 dated 24-3-2008, which ended in failure, and was duly referred to the CGIT, Asansol (Case No. 5/2009).

Shri Kalicharan Majhi, Ex. R.B. Crew, U. Man No. 692508 of 1 & 2 Incline, Jhanjra Project Colliery, submitted mercy appeal for reinstatement in service without payment of any back wages.

The Personnel Manager (L&IR), ECL (HQ), Sanctoria vide his letter No. ECL/CMD/C-6D/IL/10/DA/739 dated 28/31-5-2010, has communicated the approval of the competent authority for reinstatement of Shri

Kalicharan Majhi without any back wages, after entering into mutual settlement in Form-'H'.

In view of the above competent approval. Shri Kalicharan Majhi may be reinstated as per following terms and conditions, which have been mutually agreed and signed.

Terms & Conditions

1. Agreed that Shri Kalicharan Majhi shall be reinstated in service in shortage underground designation and at any of three units of Jhanjra Area.
2. Agreed that Shri Kalicharan Majhi will be reinstated subject to ascertaining his medical fitness for employment by the Area Medical Officer, Jhanjra Area.
3. Agreed that Shri Kalicharan Majhi will not be entitled any back wages for the period of his idleness.
4. Agreed that Shri Kalicharan Majhi will be posted in the underground wherever there is requirement.
5. Agreed that Shri Kalicharan Majhi shall be on probation for a minimum period of 1 (one) year and the same will be confirmed only on receipt of satisfactory performance certification on expiry of probation period by General Manager, Jhanjra Area.
6. Agreed that Shri Kalicharan Majhi will have to unconditionally withdrawal pending claims/ disputes if any, by him or any union in any forum/ Court of Law relating to his 'Dismissal' and will submit "No Dispute Certificate" to the management.
7. Agreed that the period of absence/idleness of Shri Kalicharan Majhi shall be treated as dies non.
8. Agreed that Shri Kalicharan Majhi will be allowed the benefit of continuity of service for the period of his idleness for the purpose of computation of his final gratuity payment only.
9. Shri Kalicharan Majhi in the event of detection of his already withdrawing payment of gratuity prior to reinstatement shall refund the same to the management prior to his reinstatement in service. In case Management has deposited it with the AIC (C)/Controlling Authority due to any reason whatsoever may be, it will be called back by the depositing authority on the ground of his reinstatement.
10. Agreed that in the event of detection of withdrawal of CMPF accumulation by Shri Kalicharan Majhi prior to re-instatement his case will be regulated as per CMPF Act/Rules.
11. Agreed that instant order/approval for reinstatement on the above terms and conditions in

respect of Shri Kalicharan Majhi shall remain valid for as period of 2 (Two) months from the date of its communication to Shri Kalicharan Majhi by Area and shall stand inoperative on expiry of the said period.

12. That these terms of settlement have been made the parties on this the 26-8-2010.

On behalf of the
Workman
(Kalicharan Majhi)

On behalf of the
Management
1. (Debasis Das)
Personnel Manager (IC),
Jhanjra Area.
2. Nazrul Islam
Sr. Personnel Officer
Jhanjra Project Colliery

Witness :

Sl. No.	Name	Designation	U. Man No.	Place of Posting	Signature
1.	Hacishnia	Fitter	692386	I&2	sd/-
2.	Lakhi Majhi	R.H.OP	692283	M.I.C.	sd/-

नई दिल्ली, 13 मार्च, 2012

का.आ. 1272.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, असंसोल के पंचाट (संदर्भ संख्या 75/2006 को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-03-2012 को प्राप्त हुआ था।

[सं. एल-20012/343/2005-आई आर (सीएम-II)]

डी.एस.एस. श्रीनिवास राव, डेस्क अधिकारी
New Delhi, the 13th March, 2012

S.O. 1272.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 75/2006) of the Central Govt. Indus. Tribunal-cum-Labour Court, Asansol, as shown in the Annexure, in the industrial dispute between the management of North Searsole Colliery of M/s. ECL, and their workmen, received by the Central Government on 13-3-2012.

[No. L-22012/343/2005-IR (CM-II)]
D.S.S. SRINIVASA RAO, Desk Officer
ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

Present : Sri Kishori Ram
Presiding Officer/Link Officer
Reference No. 75 of 2006
Parties : The Agent, North Searsole Colliery of
M/s. ECL, PO : Searsole Rajbari (Burdwan)
Vrs.
Shri Budhu Murmu

Representatives :

For the management : None
For the union (Workman) : None
Industry : Coal State : West Bengal.

Dated, the 10th February, 2012

AWARD

In exercise of powers conferred by clause (d) of Sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Govt. of India through the Ministry of Labour vide its letter No. L-22012/343/2005-IR (CM-II) dated 28-09-2006 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

“Whether the action of the management of North Searsole Colliery in dismissing Shri Budhu Murmu w.e.f. 11-09-2003 is legal and justified? If not, to what relief is the workman entitled ?”

Having received the Order No. L-22012/343/2005-IR (CM-II) dated 28-09-2006 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. 75 of 2006 was registered on 31-10-06 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed.

On perusal of the case records, it reveals that the case has been pending for filing the Enquiry Report on behalf of the management but it has not been filed till today. It is also clear that from the record that the Asstt. General Secretary of the Union, K.M.C., viz., H. L. Sony by filing a petition along with Form ‘H’ as the memorandum settlement before the Tribunal on 8-9-2011 stated about the Industrial Dispute to have been amicable settled by the management and the union as per the aforesaid agreement dated 13-6-11 which is under the signature of workman, Budhu Murmu, (dismissed w.e.f. 11-9-03) and the Mr. M. K. Das, Dy. G.M. (Per), Kunustoria Area so it was requested for the closure of the case.

Considering the aforesaid facts, the case is closed and accordingly it is hereby ordered that the case has been settled as per Form ‘H’, memorandum of settlement between both the parties as an integral part of it. The terms and conditions of the settlement shall be binding upon both the parties.

ORDER

Let an “Award” be and same is passed as per above. Form ‘H’ containing terms and conditions to form part of the Award. Send the copies of the award to the Govt. of India, Ministry of Labour, New Delhi for information and needful. The reference is accordingly disposed of.

KISHORI RAM, Presiding Officer/Link Officer

FORM-H

MEMORANDUM OF SETTLEMENT

Name of the Parties : 1. Sri Budhu Murmu, Ex. UG
Trammer, U. Man No. 543107
of N.S. Colliery

Representing employer : 1. Sri M. K. Das, Dy. G. M. (Per),
Kunustoria Area.
2. Sri. S. Wadade, P. O.,
N.S. Colliery

Short Recital of the Case

As per relevant provision of the certified standing order of the company, Sri Murmu was issued charge sheet on unauthorized absenteeism ground. Subsequently, after due enquiry he was found guilty of the charges levelled against him and was dismissed from the service w.e.f. 11-9-2003 vide letter No. A-KNT/P & IR/26 (D)/3410 dated 11-9-2003.

A mercy petition was submitted by Sri Murmu, for consideration of reinstatement in service without payment of any back wages whatsoever. After examining the recommendation of the constituted committee, the CMD, ECL has been pleased to approve revocation of earlier order of dismissal in respect of Sri Murmu and his reinstatement in service without payment of any back wages. The above competent approval of Sri Murmu's reinstatement in service was duly communicated by P. M. (L & IR), ECL, Hq. Sanctoria to the General Manager, Kunustoria Area through letter bearing No. ECL/CMD/C-6D/IL/11/DA/505 dated 20-5-2011.

The Parties as above have agreed to settle the dispute on the following terms :—

- (i) That the concerned ex-employee shall be reinstated in service in his previous designation.
- (ii) That reinstatement of the ex-employee will be subject to ascertaining his medical fitness for employment by the AMO of the Area.
- (iii) That the ex-employee concerned will not be entitled to any back wages for the period of his idleness.
- (iv) That the ex-employee on reinstatement will be posted in the underground mines wherever there is requirement.
- (v) That the ex-employee on such reinstatement in service shall be on probation for a minimum period of 1 (one) year and the same will be confirmed only on receipt of satisfactory Performance Certificate, after expiry of probation period by CGM/GM of the Area.
- (vi) That the concerned ex-employee will unconditionally withdraw all pending claims/dispute raised if any, by him or any union in any forum/ Court of Law relating to his "Dismissal" and will submit "No dispute", certificate to the management.
- (vii) That the period of absence/idleness of the ex-employee shall be treated as dies-non.
- (viii) That the ex-employee will be allowed the benefit of continuity of service for the purpose of computation of his final gratuity payment only.

(ix) That the concerned ex-employee in the event of detection of his already withdrawing payment of gratuity prior to reinstatement, shall refund the same to the management prior to his reinstatement in service. In case Management has deposited it with the ALC (C)/Controlling Authority due to any reason whatsoever may be, it will be called back by the depositing authority on the ground of his reinstatement.

(x) That in the event of detection of withdrawal of CMPF accumulation by the ex-employee prior to reinstatement, his case will be regulated as per the CMPF Act/rules.

(xi) There will be no influence or any pressure whatsoever save and except what have been written above.

That the above dispute shall be disposed of as per the terms of settlement mentioned herein above.

The parties hereby sign and execute this settlement on 13-6-2011 before the witness as given below.

Witness :

1. Sri Raj Kishore Pandey , [Sri Budhu Murmu] T. R. Col 193881 A. N. Ex-UG Trammer, U. M. No. Col 541307 of N. S. Colliery]	Babu Ram Majhi, 109981 Sig. of the workman. UG Trammer, N. S. Col.
2. Sri S. Wadade, P. O. Sri. M. K. Das; Dy. G. M. N. S. Colliery (Per) , Kunustoria Area.	Sig. of the Representing Employer(s)

नई दिल्ली, 13 मार्च, 2012

का.आ. 1273.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एफ.सी.आई. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, संख्या-2, चंडीगढ़ के पंचाट (संदर्भ संख्या 102/2011 को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-03-2012 को प्राप्त हुआ था))।

[सं. एल-22011/24/2010-आई आर (सीएम-II)]
डी.एस.एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 13th March, 2012

S.O. 1273.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 102/2011) of the Central Govt. Indus.Tribunal-cum-Labour Court, No. 2, Chandigarh as shown in the Annexure, in the industrial dispute between the management of Regional Office, Food Corporation of India and their workmen, received by the Central Government on 13-3-2012.

[No. L-22011/24/2010-IR (CM-II)]
D.S.S. SRINIVASA RAO, Desk Officer

ANNEXURE

**IN THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT-II,
CHANDIGARH**

Present : Sri A. K. Rastogi, Presiding Officer.

Case No. I.D. 102/2011

Registered on 21-2-2011

Shri Lekh Raj Sharma S/o Sh. Khally Ram, R/o House No. 49, Rehari, Jammu (J&K)

...Petitioner

Versus

The Senior Regional Manager, Regional Office, Food Corporation of India, Rail Head Complex, Jammu (Tawi) J & K.

... Respondent

Appearances :

For the Workman ... None.

For the Management ... Sh. R. S. Sharma

AWARD

Passed on 29-02-2012

Central Government vide Notification No. L-22011/24/2010-IR (CM-II) dated 21-1-2011, by exercising its powers under Section 10, Sub-section (1), Clause (d) and Sub-section (2 A) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'Act') has referred the following Industrial Dispute for adjudication to this Tribunal :—

"Whether the action of the management of Food Corporation of India in terminating the services of Sh. Lekh Raj Sharma S/o Sh. Khally Ram, R/o House No. 49, Rehari, Jammu (J&K) w.e.f. 1-10-2002 is justified and legal ? To what relief the workman is entitled to and from which date?"

After receiving the reference the notices were issued to parties. The respondent put in his appearance but the notices sent by registered post to workman on 9-5-2011 and again on 21-10-2011 returned with the postal endorsement that the workman has expired. The LRs of the deceased workman did not move for their substitution. Hence no 'Dispute Award' is passed in the case. Two copies of the award be sent to Central Government for further necessary action.

A. K. RASTOGI, Presiding Officer

नई दिल्ली, 13 मार्च, 2012

का.आ. 1274.—ऑद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.सी.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ऑद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 16/2009) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-03-2012 को प्राप्त हुआ था।

[फॉर्म नं. एस-22012/105/2008-आई आर (सीएस-II)]

डॉ.एस.एस. श्रीनिवास राव, डंरक अधिकारी

New Delhi, the 13th March, 2012

S.O. 1274.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 16/2009) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad, as shown in the Annexure, in the industrial dispute between the management of M/s. Singareni Collieries Co. Ltd., and their workmen, received by the Central Government on 13-3-2012.

[F. No. L-22012/105/2008-IR (CM-II)]

D.S.S. SRINIVASA RAO, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
ATHYDERABAD**

Present : Sri Ved Prakash Gaur, Presiding Officer

Dated the 27th day of January, 2012

Industrial Dispute No. 16/2009

Between :

The President (Sri Bandari Lingaiah),
Singareni Colliery Employees Union (CITU),
Qtr. No. T-39, SMG X Road,
Somagudem (Via Bellampalli PO)
Adilabad-504251

...Petitioner

AND

The General Manager,
M/s. Singareni Collieries Company Ltd.,
Ramgundam-III Divn.,
Centenary Colony,
Godavarikhani-504212

... Respondent

Appearances :

For the Petitioner : Nil

For the Respondent : M/s. P.A. V.V.S. Sarma & Vijaya Lakshmi Panguluri, Advocates

AWARD

The Government of India, Ministry of Labour by its order No. L-22012/105/2008-IR (CM-II), dated 27-2-2009 referred the following dispute between the management of M/s. Singareni Collieries Company Ltd., and their workmen under Section 10(1) (d) of the I.D. Act, 1947 for adjudication to this Tribunal. The term of reference is as under :

SCHEDULE

"Whether the demand of the Singareni Collieries Employees Union (CITU), Ramagundam Area for promotion of Shri G. Vaman Rao as Rigman Gr. 'B' on par with his juniors is legal and justified ? To what relief is the workman concerned entitled for?"

The reference is numbered in this tribunal as I.D. 16/2009 and notices were issued to the parties concerned.

2. Petitioner called absent for several adjournments. Even after giving several chances to file claim statement, Petitioner neither appeared nor filed claim statement and documents even after two years of receipt of reference. On 27-1-2012 also Petitioner/Petitioner union called absent. Respondent's counsel present. In absence of Petitioner/Petitioner union or his claim statement reference is to be

answered in negative, hence, a 'Nil' Award is passed.
Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant transcribed by her, corrected by me on this the 27th day of January, 2012.

VED PRAKASH GAUR, Presiding Officer
Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner
NIL

Documents marked for the Respondent
NIL

नई दिल्ली, 13 मार्च, 2012

का.आ. 1275.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, आसांसोल के पंचाट (संदर्भ संख्या 69/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-03-2012 को प्राप्त हुआ था।

[सं. एल-22012/547/2000-आई आर (सी-II)]
डॉ.एस.एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 13th March, 2012

S.O. 1275.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 69/2000) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol, as shown in the Annexure, in the industrial dispute between the employers in relation to the management of ECL, and their workmen, which was received by the Central Government on 13-3-2012.

[No. L-22012/547/2000-IR (C-II)]

D.S.S. SRINIVASA RAO, Desk Officer
ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

Present : Sri Kishori Ram, Presiding Officer/Link Officer

Reference No. 69 of 2000

Parties : The management of Dhemomain Colliery of M/s. ECL

Vs.

Shri Dilip Kr. Sinha

Representatives :

For the Management : Sr. P. K. Das, Advocate.

For the Union (Workman) : None

Industry : Coal State : West Bengal.

Dated, the 10th February, 2012 and 9th February, 2012

AWARD

In exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the

Industrial Disputes Act, 1947 (14 of 1947), Government of India through the Ministry of Labour vide its letter No. L-22012/547/2000-IR (CM-II), dated 28-7-2000 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

"Whether the action of the management of Dhemomain Colliery in not regularizing Sh. Dilip Kr. Sinha, as clerk is justified? If not, to what relief the workman is entitled and from which date?"

Having received the Order of Letter No. L-22012/547/2000-IR (CM-II), dated 28-07-2000 of the above said reference from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. 69 of 2000 was registered on 06-09-2000 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

On perusal of the case records, it is clear that in spite of giving registered notices to the union on its address as noted in the reference, the case has been all along unrepresented by the union concerned not any W. S. filed on its behalf for the workman till date. The conduct of the union and that of the workman indicates clearly that they are not interested to proceed with case which has been pending since 29-11-2001.

Under the circumstances, proceeding with the case for infinity is useless as well as wastage of time and energy of the Tribunal. Hence, the case is closed. Accordingly, it is hereby ordered :

ORDER

Let an "Award" be and the same is passed as no dispute existing. Send the copies of the order to the Government of India, Ministry of Labour, New Delhi for information and needful. The reference is accordingly disposed of.

KISHORI RAM, Presiding Officer/Link Officer

नई दिल्ली, 13 मार्च, 2012

का.आ. 1276.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई. सी. एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, आसांसोल के पंचाट (संदर्भ संख्या 76/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-03-2012 को प्राप्त हुआ था।

[सं. एल-22012/148/2007-आईआर (सीएम-II)]

डॉ. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 13th March, 2012

S.O. 1276.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. no. 76/2007) of the Central Government Industrial Tribunal-cum-Labour

Court, Asansol as shown in the Annexure in the Industrial Dispute between the management of M/s. Eastern Coalfields Limited, and their workmen, received by the Central Government on 13-3-2012.

[No. L-22012/148/2007-IR (CM-II)]
D. S. S. SRINIVASARAO, Desk Officer

**ANNEXURE
BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
ASANSOL**

Present : Shri Kishori Ram Presiding Officer/Link Officer
Reference No. 76 of 2007

Parties : The Agent, Nav Kajora Colliery of M/s. ECL,
P.O. : Kajoragram (Burdwan)

Vis.

Shri Pawan Kumar Pal

Representatives :

For the management	: None
For the union Workman	: Sri Rakesh Kumar
Industry	: Coal
State	: West Bengal

Dated the 10-02-2012

AWARD

In exercise of powers conferred by clause (d) of Sub-section(1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), Govt. of India through the Ministry of Labour vide its letter No.L-22012/148/2007- IR(CM-II) dated 24-09-2007 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

“Whether the action of the management of Nav Kajora Colliery of M/s. ECL in not regularizing Shri Pawan Kumar Pal, as Typist is legal and justified? If not, to what relief is the workman entitled?”

Having received the Order No. L-22012/148/2007-IR(CM-II) dated 24-09-2007 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. 76 of 2007 was registered on 05-10-07 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

Perused the case record, it appears that the case has been pending for filing written statement not only on behalf of the union's representative for workman and later on since 14-06-11 on behalf of the management. Meanwhile, the aforesaid General Secretary of K.M.C.; Union as per his petition filed on 07-02-12 has stated that the case has already been settled. Therefore the case is closed and accordingly it is hereby ordered that no disputes exists between them.

ORDER

Let an “Award” be and same is passed as per above. Send the copies of the order to the Govt. of India, Ministry

of Labour, New Delhi for information and needful. The reference is accordingly disposed of.

KISHORI RAM, Presiding Officer/Link Officer
नई दिल्ली, 13 मार्च, 2012

का.आ. 1277.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) को धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू. सी. एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 88/95) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-03-2012 को प्राप्त हुआ था।

[सं. एल-22012/552/1994-आई आर(सी-II)]

डी. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 13th March, 2012

S.O. 1277.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 88/95) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of WCL and their workmen, which was received by the Central Government on 13-3-2012.

[No. L-22012/552/1994-IR (C-II)]

D. S. S. SRINIVASARAO, Desk Officer
ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR**

No. CGIT/LC/R/88/95

Presiding Officer : Shri Mohd Shakir Hasan

The General Secretary,
SKMS, PO Chandametta,
Distt. Chhindwara (MP) ... Workman/Union

Versus

The Deputy General Manager,
WCI, Pench Area,
PO Parasia,
Distt. Chhindwara (MP) ... Management

AWARD

Passed on this 2nd day of March, 2012

1. The Government of India, Ministry of Labour vide its Notification No.L-22012/552/94-IR(C-II) dated 23-5-95 has referred the following dispute for adjudication by this tribunal :—

“Whether the action of the management of Western Coalfields Ltd., Nagpur (Pench Area) in terminating the services of Shri Rajnandan and 99 others (list enclosed) w.e.f. 19th August, 1994 and ordering recovery of money received by them from the date of reinstatement to date of release from Pench Area (East) is legal and justified? If not, what relief the workmen are entitled to?”

2. The case of the Union/Workmen, in short, is that Shri Rajnandan and three hundred workers were working in Dighawani Quarry on the post of Truckloader. They had

been terminated in the year 1980. The S.K.M.S Union raised an Industrial dispute against the management, Pench Area. Ultimately the dispute was referred to the Tribunal which was numbered as case No. CGIT/LC/R/43/1982. The Tribunal passed an award dated 27-6-1990 and directed the management to reinstate 301 workers with back wages. The management challenged the award by filing a writ before the Hon'ble High Court, MP at Jabalpur vide M.P. No. 2681/90. The Hon'ble High Court passed an interim order dated 13-11-90 and directed to take the workers in employment and in the meanwhile back wages may not be paid. The management did not take the workers in employment and filed again an application before the Hon'ble High Court. The Hon'ble High Court again passed an interim order dated 11-2-1991 whereby again directed the management to issue the reinstatement orders in favour of 301 workers and shall be delivered to the authorized representative of the SKMS Union through General Secretary of the union and in case of any difficulty of identification, the representative of the union shall identify the labourer worker. In order to harass the workers, the management made a plan to transfer the workers to Maharashtra and to make them unfit on medical ground and the letters were issued to the workers. The Union challenged the transfer orders before the Hon'ble High Court. The Hon'ble High Court was pleased to direct the management that the workmen shall be reinstated from the places from where they were terminated or in the same Pench Area of WCL. It is further directed vide order dated 29-10-91 that no other formality of photograph or medical checkup will be directed by the management. Thereafter instead of complying the order, the management preferred S.L.P before the Hon'ble Supreme Court but the Hon'ble Apex Court disposed off the same with a direction to comply the order of the High Court within 10 days.

3. The Union filed contempt petition against the management before the Hon'ble High Court. Thereafter the management passed the order of reinstatement of 292 workmen and as such since then they were working continuously for two years on the surface of Rawanwara Mine of Pench Area. It is stated that on 3-5-94, the management directed all the 292 workmen by issuing transfer letters to work in the different underground mines of Mathani, Thesgora, Vishnupuri, Mahadeopuri and Gajandoh Collieries and released them from Rawanwara Mine of Pench Area. It is stated that out of 292 workers, 154 workers challenged the transfer order before the Hon'ble High Court and the same was pending for want of reply of the management. It is stated that however in the meantime, the management allowed the said workers to join there except Rajnandan and 99 other workmen of this reference though these workmen were also ready to join duty at the new places of posting.

4. The further case of the Union is that a showcause notice was published in the Dainik Express daily newspaper on 11-8-94 in English against Ranjandan and 99 other workmen by the management for non-compliance of the provision of Section 48(1) and 48(3) of the Mines Act, 1952. When the workmen and the Representative of the union came to know of the alleged notice, they appeared before the Enquiry Officer on 14-8-94 and demanded to furnish copy of showcause in Hindi to the workmen which was

assured by the management. It is stated that the workmen nominated Shri P.K. Banerjee as their co-worker to defend them in the enquiry proceeding. It is stated that on 17-8-94, again the workmen alongwith their Union Representatives came at the place of enquiry but the Enquiry Officer and Management Representative were not present. When they returned again on the same day, they subsequently came to know that the Enquiry Officer conducted the enquiry exparte without giving opportunity to the workmen to defend themselves though 17-8-94 was also fixed for appearance of the workmen and submitted the enquiry report before the Disciplinary Authority. The Disciplinary Authority also passed the order of termination w.e.f 19-8-1994.

5. The further case of the union is that the workmen were workers in the year 1980 at Pench East Colliery of WCL, Pench Area and they had been reinstated, as such they had already completed form B at the initial time of employment as required under the provision of the Mines Act, 1952. They had not been allowed to join at the new place of transfer though they were ready to join and even today they are also ready to join at new places but the management allowed certain workers on pick and choose basis under the influence of leader of another Union and refused to allow to join these workers. Therefore the question to fill up the Form "B" register at the transferred colliery does not arise. It is stated that the Hon'ble High Court had also passed an order in the context of requirement of Form "B" under the Mines Act 1952 on the interlocutory application of the management which was known to the management. It is stated that the management had admittedly paid wages for two years after reinstatement and they had been also paid bonus profit sharing bonus and its arrears and deducted the amount of PF as the work was taken from them in the mine after reinstatement. It is stated that termination was illegal and unjustified. It is submitted that the workman be reinstated with back wages.

6. The management appeared and contested the reference by filing Written Statement. The case of the management, interalia, is that it is admitted fact that Shri Rajnandan and 99 workers, out of 301 workers, were reinstated by the award dated 27-6-90 passed by the Tribunal in Case No. CGIT/LC/R/43/1982. They were alleged to have been terminated while employed as truck loaders from the Dighawani Quarry which was closed in the year 1984. As per the aforesaid award, they were entitled to be employed as Truck Loader or in the similar capacity from 21-6-1980 with back wages and all consequential benefits. The management challenged the said award before the Hon'ble High Court of MP, Jabalpur vide M.P. No. 2681/90. The Hon'ble High Court was pleased to pass an order dated 13-11-90 to the effect that back wages may not be paid provided these 301 persons are taken in employment. Since there was requirement of manpower in Maharashtra, the office orders were passed posting them in the various areas of Maharashtra. It is stated that nine of these workers joined their duties in Maharashtra but the Union challenged the action of the management before the Hon'ble High Court and vide order dated 29-10-91, the Hon'ble Court directed to post them in Pench Area itself. Since there was surplus manpower in Pench Area, the management filed SLP before the Hon'ble Supreme Court

for permitting the management for posting them in any of the WCL Areas. However the Hon'ble Apex Court vide its order dated 30-3-92 declined to interfere with the interim order of the High Court and directed to comply the same and directed the High Court to dispose of the case within 3 months. The management issued orders of reinstatement of the workmen in Pench Area.

7. The further case of the management is that the pre-requisite for employment in Coal Mines is that the personal particulars in the statutory Form B Register of every workman are required to be maintained in accordance with the Mines Act and Rules. The entries in Form B Register are also required in case of transfer of worker from one colliery to another. It is stated that 292 workmen failed to furnish their personal particulars to fill up the entries in Form B Statutory Register inspite of repeated instructions. On account of surplus manpower in Pench Area, these 292 workmen were not gainfully employed due to non-compliance of the provision of Mines Act and Rules.

8. The further case of the management is that the Hon'ble High Court vide order dated 5-3-91 ordered to reinstate Rajnandan and 300 others with a liberty to the management for verification of their identity in case of doubt from his own sources. It is stated that 292 workers were reinstated on the identification of the General Secretary of the Union but the management received complaints of false identifications done by the General Secretary by unfair means. It was necessary for the management to verify the same but in absence of personal particulars of 292 workers, they were continued on the rolls without performing any work and drawing wages for about 2 years. It is stated that the management transferred them in May 1994 in a newly opened underground projects of Pench Area as piece rated loaders with instructions to furnish personal particulars at the new places of posting. Out of 292 workers, 192 workers obeyed the orders and reported on duty and they had been assigned duties after furnishing personal particulars required as in Form B register. However Rajnandan and 99 others did not turn up for duty at the new places of posting.

9. The further case of the management is that show cause notices were issued against Rajnandan and 99 other workers. It was also published in the local daily newspaper of Jabalpur Express but they failed to respond the same. A departmental enquiry was then initiated but none appeared on 14-8-94 inspite of notices. To ensure natural justice, the Enquiry Officer adjourned the proceeding for 17-8-94. Even on that day, the workmen did not appear. Therefore the Enquiry Officer conducted the Enquiry ex parte and completed the enquiry and submitted his enquiry report on 17-8-94 i.e. on the same day. On the basis of enquiry report, the Disciplinary Authority passed the order that the 100 workmen terminated the services themselves and the same be brought on record w.e.f. 19-8-94 on refusal to comply with the requirements of Section 48(1), 48(3) and 48(1)(e) of the Mines Act read with Rule 77 of the Mines Rules 1955 and also directed to recover the amount paid to them from the date of reinstatement to the date of release from Pench East. Under the circumstances, it is submitted that the action of the management is fully justified and accordingly the reference be answered.

10. On the basis of the pleadings of the parties, the following issues are for adjudication—

- I. Whether the departmental enquiry conducted by the Enquiry Officer of the management of WCL, Nagpur (Pench Area) against Rajnandan and 99 others for terminating the services was legal and valid?
- II. If not, whether the management is able to prove their misconduct in Court?
- III. Whether the action of the management in terminating the services of these workers w.e.f. 19-8-1994 is legal and justified?
- IV. Whether the management is entitled to recover the amount received by them from the date of reinstatement to the date of release from Pench Area (East)?

V. To what relief, if any the workmen are entitled?

11. On the basis of the pleadings of both the parties, it is evident that the following facts are admitted.

1. Shri Rajnandan and three hundred workers are said to have been in employment at Dighwani Quarry in the year 1980 and they had been terminated by the management.

2. The SKMS Union raised the Industrial Dispute on their termination and the dispute was referred to the Tribunal which was numbered as case No. CGIT/LC/R/43/1982.

3. The Tribunal passed an award date 27-6-1990 whereby it was directed to the management to reinstate 301 workers with back wages.

4. The management challenged the award before the Hon'ble High Court of MP vide M.P. No. 2681/90.

5. The Hon'ble High Court passed an interim order dated 13-11-90 and directed to take the workers in employment and in the meanwhile back wages may not be paid.

6. The management did not take the workers in employment thereafter and again filed interim application before the Hon'ble High Court.

7. The Hon'ble High Court again passed an interim order dated 11-2-1991 and directed the management to issue reinstatement orders in favour of 301 workers and shall be delivered to the authorized representative of the SKMS Union through General Secretary. In case of any difficulty of identification, the representative of the Union shall identify the labour workers.

8. The management passed orders and placed their services in Maharashtra by directing the formality of photograph and medical checkup.

9. The Union challenged the transfer orders before the Hon'ble High Court.

10. The Hon'ble High Court vide order dated 29-10-91 directed the management that the workman shall be reinstated from the places from where they were terminated or in the same Pench Area of WCL and no other formality of photograph or medical checkup will be insisted by the management.

11. Instead of complying the order, the management preferred to file SLP before the Hon'ble Supreme Court but the Hon'ble Supreme Court directed to comply the order of the High Court within 10 days.

12. The union filed contempt petition vide M.C.C.

No. 670/91 against the management before the Hon'ble High Court.

13. Thereafter the management passed the orders of reinstatement of 292 workmen and placed them in Pench Area.

14. The management passed transfer orders on 3-5-94 against all 292 workmen and directed to join at different mines of Thesgora, Mathani, Vishnupuri, Mahadeopuri and Gajandoh collieries with direction to furnish information and sign form B register.

15. Out of 292 workers, 154 workers challenged the transfer orders before the Hon'ble High Court and the same was pending for want of reply.

16. The management allowed the workmen to join the new places of posting except Rajnandan and 99 others who are workmen in this reference and admittedly they had not joined at the new places of posting.

17. The management published a notice of showcause in the Daily Newspaper "Dainik Express" in English on 11-8-94 against Rajnandan and 99 others for non-compliance to furnish information and sign Form B register as required under Section 48(1) and 48(3) of the Mines Act, 1952.

18. These workmen were directed to appear in the departmental proceeding on 14-8-94 and on 17-8-94 before the Enquiry Officer and to file their show cause.

19. The Enquiry Officer conducted the proceeding ex parte on 17-8-94 against Rajnandan and 99 others and submitted enquiry report on the same day.

20. The Disciplinary Authority also passed the order that the termination of their services by the workmen themselves as brought to record w.e.f. 19-8-94 with direction to realize the amount which was received by these workmen from the date of reinstatement to the date of release from Pench East from them, their property and their legal heirs jointly and/or severally as it was recoverable.

21. The management had paid wages for about two years after reinstatement and they had been also paid bonus, profit sharing bonus and its arrears and deducted the amount for Provident Fund.

22. Now it is also an admitted fact that M.P.No. 2681/90 is disposed of by the Hon'ble High Court on 23-3-2005 and reinstatement part is upheld and the matter is remitted back to decide question of backwages afresh.

12. Issue No. I

This issue is taken up as a preliminary issue as to whether the departmental enquiry conducted by the Enquiry Officer against Rajnandan and 99 others was legal and valid. The order on preliminary issue is passed on 23-6-09 wherein it is held that the departmental enquiry conducted by the Enquiry Officer against the workmen is illegal and is in violation of the natural justice. The management has not challenged the said order of preliminary issue. However the management was permitted to led evidence on merit to prove the charges before the Tribunal. Thus this issue is already earlier decided in favour of the Union and against the management.

13. Issue No. II

Now the important question is as to whether the management is able to prove the misconduct of the workmen in Court. The charges as alleged by the management against

these workmen and published in the newspaper on 11-8-1994 are as follows—

"Before you were employed in the mine, and sent on duty you were required to fulfill the statutory requirement of Section 48(1) and 48(3) of the Mines Act 1952 read with 77 of Mines Rules 1955 and authenticate the entries by your signature or your thumb impression as required by Section 48(1)(e) or Mines Act, 1952. Since you did not comply with the above pre-requisite statutory conditions, before you were employed and on duty in the mine you continued to remain legally reinstated at Pench East but not employed nor on duty.

The Hon'ble Supreme Court in the above mentioned SLP has conveyed the High Court to dispose of the writ finally within 3 months from 30th March 1992 but the writ is yet to be finally disposed of by the High Court of MP. You were redeployed as mentioned in Column No.5 against your name and released from Pench East on and from the date mentioned in column No.6 against your name with direction to report for duty forth with immediately, but you did not report till 17-7-94 at the re-deployed mine, nor gave particulars required under Section 48(1) and 48(3) of the Mines Act. 1952 nor authenticated under your signature of L.T.I., the information required to be authenticated by Section 48(1)(e). By your above non-compliance actions and inactions your services after legal reinstatement at Pench East, stand terminated by you which is hereby brought to record.

The entire money paid to you at Pench East from the date of reinstatement and date of release is recoverable in full from you and from you; legal heirs as you did not get employed in mine and on duty although legally reinstated, because of your non-compliance or statutory requirements being in nature or pre-requisite conditions to your employment and being on duty.

You are requested to show cause within 72 hours, if you so desire, as to why the above termination of legal reinstatement by you, should not be brought to record and as to why money paid to you as above should not recovered from you—your property, legal heirs jointly and or severally.

The above misconducts, constitute breach of order Nos.26(1), 26(3), 26(15) and 26(43) of the Standing orders applicable and are punishable under standing order applicable."

14. According to the management, the pre-requisite for employment in coal mines is that the personal particulars in the statutory form B Register for every workman are required to be maintained in accordance with the Mines Act and Rules. Again the entries in Form B Register are also required in case of transfer of worker from one colliery to another. These 292 workmen failed to furnish their personal particulars to fill up the entries in Form B statutory register at the time of reinstatement inspite of repeated instructions and they were not gainfully employed. It is further stated that these 100 workers were then transferred in May 1994 for gain full employment in newly opened underground projects or Pench Area as piece rated but

these workers did not turn up for duty at the new places of posting and did not furnish the personal particulars as required in case of transfer to another colliery.

15. The Union/workmen contended that these workmen were working in the year 1980 at Pench East Colliery of WCL, Pench Area and they had been reinstated after setting aside their termination order by the award dated 27-6-1990 passed in Case No. R/43/1982 by the Tribunal and the same is upheld by the Hon'ble High Court of MP at Jabalpur vide order dated 23-3-2005 passed in M.P. No. 2681/90. As such they had already completed form B at the initial time of employment as required under the mandatory provision of the Mines Act, 1952. Further it is stated that they had not been allowed to join the new places of transfer through they were ready to join and today they are also ready to join at the new places but the management allowed certain workers on pick and choose basis under the influence of leader of another Union and refused to allow to join these workers. Thus the question to fill up the Form B Register at the transferred places does not arise.

16. Now let us examine the evidence adduced by the management to prove the charges against the workmen. There are two parts of the charges against the workmen. The management has examined four witnesses to prove misconduct. Shri R.L.Singh, retired as sub Area Manager in Feb, 1998. He has admitted that the SKMS(AITUC) raised industrial dispute to provide work for Shri Ram Janam and 300 others Truck loaders employed in Dighawani Quarry and to regularize them as colliery workers. The said dispute was admittedly referred to the Tribunal and was registered as Case No. R/43/82. He has admitted that award dated 27-6-90 was passed for reinstatement. This shows that the relationship of employer and employee was established unless it is reversed by any competent court. He has further stated that the management challenged the said award before the Hon'ble High Court of MP at Jabalpur vide M.P. No. 2681/90. The learned counsel for the workmen submitted that the said MP No. 2681/90 is disposed off by the Hon'ble High Court on 23-3-05 and the reinstatement part of the award is upheld and the matter is remitted to decide back wages. The workman filed the order dated 23-3-05 of the Hon'ble Court which is marked as Exhibit W/9. It is submitted that again it is established that the relationship exists between them and they were employed in 1980.

17. This witness Shri R.L.Singh has further stated at Para 38 that there was dispute of Permanent employment with the Union. This shows that these workmen were working with the management as such there was only dispute of permanent employment. He has stated that he had prepared his evidence by affidavit with the help of lawyer. This clearly shows that his evidence is tutored after seeking legal help from the lawyer. It creates doubt about the veracity of the evidence of the witness and appears to be tutored one. This witness has further stated that no workman can work without Form B under Mines Act. It is urged by the learned counsel for the workmen that engagement of these workmen in the year 1980 is established then as per mandatory provision of the Mines Act, it is to be presumed that there must be creation of Form B register of these workmen from the year 1980 otherwise the management was violating the provision from

the very beginning for the reason best known to the management. I find substance in the argument of the learned counsel for the workmen in view of the evidence of this witness. This shows that the first part of the charge of misconduct that after reinstatement the workmen did not furnish personal particulars is not fully established from the evidence of this witness rather it proves that the personal particulars of these workmen were with the management from the very initial engagement of the workmen as required under the mandatory provision of the Mines Act 1952 and it was being concealed by the management.

18. For second part of the charge, this witness has further stated that in his time these workmen who came to join at the transferred places, joined and filled up Form B and those workmen who did not turn up, had themselves terminated their services under the provisions of Section 48 of the Mines Act. Section-48 of the Mines Act 1952 provides the procedure for maintaining register on the prescribed form by the management of the personal particulars of the workmen. There is nothing to indicate that it amounts to termination themselves on non-compliance. This witness has stated that they did not turn up for joining. As such the question to refuse to furnish personal particulars for Form B on the transferred places does not arise. Moreover the Section 48 of the Mines Act 1948 does not show that those workmen who would not turn up for joining is deemed to be terminated themselves rather it may be a case of non joining of the management and the management case is that he had not terminated the workmen on his non-joining rather they had terminated themselves. Thus his evidence is not sufficient to prove misconduct who happens to be tutored by the legal expert for adducing his evidence and it does not prove that the workmen refused to furnish personal particulars at transferred places.

19. Another management witness Shri Bishram Daheria is clerk since 1980 at Rawanwara Khas Colliery of Pench Area. His work is to fill up Form-B of newly appointed workers or of the workers who joined on transfer. He has stated that these workers were reinstated as it was in their letters. This clear shows that they were neither newly appointed nor they joined on transfer at Pench Area when they refused to furnish personal particulars rather they were reinstated on the basis of award. His evidence also not supports the case of misconduct. There is no evidence on the second part of the charges that they refused to furnish particulars at the transfer places. Another management witness Shri Baban Rao Vishwakarma is working as Token clerk since 1991 at Rawanwara Khas Colliery. His evidence is also on the first part of the charges. He has stated that 292 workers were reinstated at Rawanwara Khas, Pench East in April/May 1992 and their attendance were taken in Form E of Mines Act and Rules. He has stated that Form B was not filled up of 100 workers out of 292 workers and they were sitting idle at the place of work and were drawing wages. He has stated at para-7 that these workmen were appointed earlier but he cannot say that the Form B was filled up or not. His evidence also supports that they were employed in the Mines earlier and therefore in view of the mandatory provision of Mines Act it appears to have already been compiled earlier. He has

further stated at para-9 that the management had directed him to fill up Form E after verifying from Form-B. This evidence shows that Form B was in existence which supports the case of the Union.

20. The last witness Shri S.K.Puri was working as Dy. CPM(Manpuwa) who retired on 31-7-2009. He was Sr. Personnel Officer, thereafter Dy. Personnel Manager at Rawanwara Khas Colliery, Pench Area for the period of 1986 to 1993. He has come to say that the Union raised industrial dispute and an award dated 27-6-90 was passed that these 301 persons were entitled to be employed as Truck Loaders or in similar capacity from the date of re-opening of the quarry with backwages. He was transferred to Wani Area of WCL, in Maharashtra state in the year 1993 and worked there till 1998. He appears to be not competent to say about second part of the charges that these workmen did not furnish personal particulars at the transferred places in the year 1994 and did not join there on release from Rawanwara Khas Colliery.

21. He has further stated in his evidence that the Form B is prepared of the workman at the time of initial entry into the service and thereafter token number is given. He has stated that these 99 workers were reinstated by the order of the Tribunal and the same is upheld by the Hon'ble High Court. He has further stated that reinstatement means that they were earlier employed and were employed again. His evidence clearly shows that as per provision of the Mines Act, the Form B register of these workmen were prepared at the initial stage of their employment. Thus his evidence doesnot prove the charges of misconduct leveled against these workmen.

22. The management has also adduced documentary evidence in the case. Exhibit M/2 to M/101 are transfer orders dated 3-5-94 of Rajnandan and 99 other workmen who appear to have been transferred from Pench East Incline to different collieries namely Mathani, Thesgora, Vishnupuri, Mahadeopuri and Gajandoh. The transfer orders show that it were not simple transfer orders rather the management leveled charges at the first instance in the transfer orders without any proceeding or on substantive basis and thereafter transferred the workmen at different collieries. There is no document to show that before making charges against the workmen in transfer orders, any departmental action was initiated or any punishment was awarded for non-compliance before issuing transfer orders. This shows that the management was prejudiced on account of award in favour of the Union and also by subsequent directions by the Hon'ble High Court and Hon'ble Apex Court for reinstatement to these workers. The transfer orders appear to have been admitted by the workmen/Union that it were issued to them and they were not allowed to join at the transfer places and are still ready to join at the new places.

23. The management has filed certified copies of chargesheet dated 19-10-1993, list of documents, list of witnesses, FIR filed by one Shri Balkaran, ordersheets of the criminal court, residential certificates, affidavits of the witnesses, seizure list and statements of the witnesses of criminal case No. 444/09 pending in the court of Sushri Sarita Bhadwani, Judicial Magistrate 1st class, Chhindwara which are marked as Exhibit M/102 to M/179. This is filed to show that one Shri Balkaran had alleged that 28 workers out of 301 workers had impersonated in place of real

workers and they had been reinstated in their places. Out of these 28 alleged workers, 9 alleged workers are also in 100 workers who are in this reference case.

24. The learned counsel for the management argued that serious dispute regarding identification arose and one Shri Deshpandey filed an application regarding identification in W.P. No. 2681/1990 before the Hon'ble High Court of MP at Jabalpur. It is urged that criminal cases were registered against Shri P.K. Bannerjee, Secretary of the Union and several others. As such the personal particulars of the workers for their identifications were required.

25. The learned counsel for the workmen submitted that there is a categorical finding of the Hon'ble High Court with regard to the question of identification and reinstatement of the concerned workmen including these 100 workers in M.P.No. 2681/90. It is also submitted that during the pendency of M.P. No. 2681/90, the management sought direction for filling of Form B register with an intention to identify the workmen concerned and the Hon'ble High Court vide order dated 30-9-92 did not give any direction. However the Hon'ble Court made an observation that the said direction would be considered at the time of final hearing and the order dated 30-9-92 was merged when the petition was disposed off finally. The workmen has filed the copy of the interlocutory petition No. 4741/92 dated 25-6-92 filed by the management in M.P. 2681 /90. Para-6 of the said interlocutory petition runs as follows—

“Under the Mines Act, 1952 Rule 48(1)(3) the management is required to maintain Form B Register which is a statutory Register, a sample copy of which is enclosed (Document No. 8). For this purpose. Union is required to give necessary information including the permanent address. But inspite of repeated requests, neither the Union nor the workers have given the necessary information. This is also preventing effective steps being taken to identify the workmen concerned which has been permitted by this Hon'ble Court. The Union is not cooperative which is self evident at several stages.”

The said interlocutory petition No. 4741 dated 25-6-92 was disposed off by the Hon'ble Court on 30-9-92 in M.P. No. 2681/90. The workmen filed the copy of the order dated 30-9-92 which runs as follows—

“Also heard on I.A. No. 4741/92 filed by the petitioner employer seeking certain directions against the respondent Union. It shall be considered at the time of final hearing.”

26. Thus it is clear that the management sought direction from the Hon'ble Court and the matter became subjudice till the final disposal of the case. It appears that in the meantime the management without further seeking direction from the Hon'ble Court show caused for the said non-compliance of the personal particulars of Form B and is therefore not tenable. It appears to be not a misconduct by the workmen by denying to furnish personal particulars in the light of above dicussion.

27. The learned counsel for the workmen submitted that during the pendency of M.P. No. 2681/90, the Hon'ble High Court passed orders which lead to reinstatement of 301 workers including the 100 workers in question. It is

submitted that there is a categorical finding of the Hon'ble High Court with regard to the question for identification and reinstatement of the concerned workmen including these 100 workers. The workmen has filed the final order dated 23-3-05 passed in M.P.No.2681/90 which is marked as Exhibit W/9. The Hon'ble High Court has held that—

"Para-10 :

Shri Nair has submitted that workmen have reinstated as per the interlocutory orders passed by this Court. A Division Bench of this Court has passed an order on 11-2-1991 to the following effect:—

Shri P.S.Nair for the petitioner.

Shri N.C.Jain for respondent No.1.

Shri N.C.Jain counsel for the respondent No.1 brought to our notice that the petitioner has not complied the orders of this Court dated 13-11-90 whereby the petitioner was directed to take the labourers in the employment. Shri Nair appearing for the petitioner states that the petitioner is prepared to reinstate the 301 employees but the same could not be done as they are not in possession of respective addresses of those 301 employees. Shri N.C.Jain submits that the order of reinstatement be delivered to the authorized representative of the Union, respondent No.1.

It is directed that the petitioner shall issue the reinstatement orders in favour of 301 employees and the same shall be delivered to the authorized representative of the respondent No.1 through General Secretary of the respondent Union within 15 days and in case of any difficulty of identification, the representative of the Union Respondent No. 1 shall identify the labourer employee.

They are also heard on I.A.No. 986/91.

Counsel for the respondent doesnot press the same.

The petition be listed alColfter 15 days for admission."

Para-11 :

On 5-3-91 further directions were issued by this Court which is quoted below:—

Shri P.S.Nair for the petitioner.

Shri N.C . Jain for the respondents.

Heard on admission.

Admit Security Rs.250 to be deposited within one month and identical copies also within the same period.

They are heard on I.A.No.1428/91 which is an application made on behalf of the petitioner for modification of the order dated 11-2-1991 wherein it has been directed that the petitioner shall issue the reinstatement orders in favour of the 301 employees and the same shall be delivered to the authorized representative of the Sangh, respondent No.1. and in case of any difficulty of identification the representative of the Union shall identify the labourer concerned.

In the application under consideration. the petitioner has expressed the willingness to employ 301 workers but none of the employees are approaching the management to receive the reinstatement orders although the reinstatement orders have already been passed and the

delivery of the reinstatement letter to the representative or the respondent Union is likely to result in delivering the same to a wrong person as the management apprehends that a large number of persons mentioned in the award are now really not in existence.

Having regard to the facts, the order dated 11-2-91 is modified only to the extent that the said 301 employees who are directed to be reinstated shall approach the management and secure the letter or reinstatement personally from the management and in case of any difficulty in the identification of a particular employee the Union representative shall identify the labourer/employee. It is however, made clear that even after the reinstatement order is issued to any labourer/employee and if the management entertain any doubt about his identity the management would be free to verify from their own sources.

Para-12:

Further order was passed by this Court into the question of identification and reinstatement of workmen on 29-10-1991 to the following effect :—

Shri P.S.Nair for the petitioner.

Shri P.P.Naolekar with Shri R.M. Shukla for the respondent No.1 Union.

Heard on I.A.No. 8046/91 for modification of the order passed by this Court on 5-3-1991.

Learned counsel for the respondent No. 1 Union states that the order passed by this Court on 13-11-1990 directing reinstatement of the workmen has not been complied with and several hurdles are being created by directing their identification, medical checkup and they are being asked to join in collieries outside the State.

Learned counsel for the petitioner employer states that on the basis of the award of the Labour Court, the employer has a choice to reinstate workmen at any place where it vacancies.

Having heard learned counsel for the parties, we directed that during the pendency or the petition, the workmen represented by the respondent No. 1 Union, whose termination has been set aside by the Labour Court, shall be reinstated at the places from where they were terminated or in the same pench area of WCL. So far as identification of workmen is concerned, directions have already been issued by orders passed by this Court on 11-2-1991 and 5-3-1991. No further orders in that regard are necessary to be passed. It is, however, directed that no other formality of photograph or medical checkup will be insisted by the employer.

With the above observations, the application for modification of the order dated 5-3-1991 is disposed of.

Para-14 :

Question or identification stands concluded by the directions issued by this Court and it has been stated by Shri Nair that workmen were reinstated as per the directions issued by this Court. They are continuing in service for more than a decade. Thus far reinstatement part I find no ground to make interference,

Para-18 :

In the instant case, the CGIT has not given any finding that the workmen were not employed gainfully elsewhere. Thus to that extent the award passed by the CGIT is set aside. Reinstatement part is upheld. With respect

to back wages award is set aside. Matter is remitted back to the CGIT to decide question or backwages afresh in the light of discussion made above.

Thus it is clear that the M.P. No. 2681/90 was finally disposed off on 23-3-05 and the question of identification was also concluded and the management had reinstated after removing doubt of the identification.

28. It is not out of place to say that one Shri Balkaran had also filed petition before the Hon'ble High Court of similar nature that imposter persons were given employment which was subsequently withdrawn. There is a specific case of the management that the management has no personal particulars of the workmen. Then as to how the management contended that the criminal case No. 444/09 filed by Shri Balkaran against 28 others for impersonating him and other witnesses were genuine persons. It looks probable that these persons are setup to make hindrance in the implementation of the award passed on 27-6-1990. Moreover there is no reference on the point that as to whether 28 workers are impersonating in place of real workers. It is a settled principle that the Tribunal cannot go beyond the reference and there is no reference on the above point. Moreover the criminal court in her order dated 8-12-06 passed in the same criminal case and had observed (Exhibit M/10) as follows:—

प्रकरण आज आरोप पर आदेश के लिए ये नियत था। अभियुक्तगण के विरुद्ध मुख्य रूप से यह अभियोग है कि उनके द्वारा प्रतिरूपण के द्वारा छल कारित किया गया तथा अन्य व्यक्ति के स्थान पर उनको प्रतिरूपण करते हुए डब्ल्यू. सी. एल. में नौकरी प्राप्त की गई, परन्तु प्रकरण में स्पष्ट रूप से इस संबंध में कोई प्रमाण विद्यमान नहीं है कि कौन अभियुक्त किस व्यक्ति का प्रतिरूपण करके उसके स्थान पर नौकरी किया, प्रतिरूपण के द्वारा छल कारित करने के संबंध में यह आवश्यक है कि कोई व्यक्ति किसी अन्य व्यक्ति का प्रतिरूपण करते हुये उसके स्थान पर स्वयं को प्रतिस्थापित करें।

Thus it is clear that Shri Balkaran and the witnesses had not yet established before the criminal court with respect to the impersonation and it looks probable that they were setup by another Union in collusion with the management. However the question of identification was finally concluded by the Hon'ble High Court at para 14 of the order dated 23-3-05 passed in M.P. No. 2681/90. Thus the documents of the criminal court, which are marked as Exhibit M/10 to M/79, are not helpful to the management for denying identification of these workmen.

29. The management has filed incomplete Form B register of 100 workers which are marked as Exhibit M/180 to M/279 which are not said to be Form B register unless it is completed and signed by the authority for any verification. The learned counsel for the management submitted that the management has prepared Form B register while reinstating the workers in compliance with the order of the Hon'ble High Court with the available information from the order of reference i.e. name and father's name. The rest of the particulars were not filled up as the same were not supplied by the workers. On perusal of the incomplete Form B registers which are marked as Exhibit M/180 to M/279 it appears that it is not clear that as to when it was prepared. It also appears that the date of

commencement of employment was not filled up as they were admittedly reinstated and date of termination or leaving the employment is also not mentioned in the Form B. It also shows that the date of appointment was wrongly stated in Form B which was the date of reinstatement. It looks probable that the said register is prepared only for the purpose of reference case. As such the date of initial appointment of employment is intentionally omitted for the reason best known to the management. This Form B register of the workmen does not prove that the management had no personal particulars of the workmen prior to reinstatement because they have been reinstated and the mandatory provision of Section 48 of the Mines Act, 1952 provides that at the initial appointment the Form B register is to be prepared. This Form B register does not prove the misconduct of the workmen.

30. The management has filed copy of award dated 27-6-1990 passed in Reference Case No. R/43/1982 which is marked as Exhibit M/282. The learned counsel for the management has referred para 46 of the said award. It is submitted that the para 46 of the award shows that the Union witness Shri P.K. Bannerjee, who was General Secretary of SKMS Union in WCL, Pench and Kanhan Area, had stated that the management had refused to enter names of these workers in Form B and D registers and Union had protested with no effect. According to him, the Union had a protest in this regard in consequence of which the Mines Department issued a letter closing down the mines on account of various irregularities including the non-entry of the names of 300 persons in Form B and D registers. It is submitted that the Tribunal in Case No. R/43/82 gave findings that the management had not maintained the Form B register in respect of these persons prior to their termination of the services. It is submitted that the management was justified in directing these 100 workmen to furnish personal particulars to complete Form B register in compliance of the provision of Section 48 of the Mines Act and Rule 77 of the Mines Rules but these workmen had disregarded or disobeyed the direction and committed misconduct.

31. It is true that the award shows that the Union had taken a plea and the witnesses of the Union had stated in their evidence in Case No. R/43/82 that in order to deny that these workmen were their employees, the management deliberately did not keep any statutory register as per Mines Act, 1952 nor any payment register in accordance with Wages Act, 1936. It does not mean that they were not maintaining personal particulars or any unstatutory registers of these workmen because Para 37 to 40 of the award show that these workers were paid wages by the Payment Clerk from the window of the Pench East Colliery. Deputy Director of Mines Safety had also found several irregularities in consequence of which the quarry of WCL was closed for three months. It is also clear from the award that the management were maintaining the register of wages of the workmen and other sada registers. This aspect of the case clearly shows that the management had personal particulars of these workmen but had not maintained statutory registers as had been provided in Section 48 of the Mines Act, 1952 and Rule 77 of the Mines Rules which was also highlighted by Dy. Director of Mines Safety. It

was the duty of the management to prepare Form B register under Mines Act and Rules and not of the workmen. Moreover the management had himself sought direction for cooperating to fillup personal particulars for Form B vide interlocutory petition No. 4741 in M.P. No. 2681/90 and the Hon'ble High Court vide order dated 30-9-92 directed that the same be disposed of at the time of final hearing. Thus it is clear that the refusal by these workmen to furnish personal particulars which resulted in issuance of charge sheet did not constitute misconduct. Moreover it is not out of place to say that the workmen have filed declaration forms of Coal Mines Provident Fund for allotment of account numbers and the same are duly authenticated by the management which are Paper Nos. 30/33 to 30/125. These declaration forms are not denied by the management. These forms clearly show that the personal particulars are with the management which are required for Form B and authenticated by the management. This aspect Further shows that the management had personal particulars and denial to furnish personal particulars was not amount to misconduct. Thus the oral and documentary evidence adduced by the management are not sufficient to prove misconduct of these workmen.

32. On the other hand, the Union/workmen has also adduced oral and documentary evidence in the case. Shri Rajnu Paswan is examined on behalf of the 99 workmen. He is instrumental in filing petition before the Hon'ble High Court on behalf of 99 workmen for allotment of Provident Fund numbers. He has stated that the management was refusing to allot the PF number to the workmen. A writ petition 2504/2000 was filed by one of the workmen namely Paras and the Hon'ble High Court vide order dated 8-1-2003 directed for allotment of Provident Fund number in accordance with law. Copy of Form A is filed by the workmen which are paper Nos. 30/33 to 30/125. The said Form-A shows that the personal particulars of the workmen were disclosed in the form and was authenticated by the management. This is evident that the management had personal particulars of the workmen as such it is verified by the management. He has stated at Para 6 that at the time of reinstatement of the workmen, the management issued a letter dated 25-4-1994 with specific direction that the attendance of the concerned workmen should be permitted on total verification of the workmen maintained in Form B. It is submitted that Form B of the workmen was available with the management for verification and the management had personal particulars of the workmen as such the Mines Manager had accordingly directed. His evidence supports the case of the workmen that the personal particulars were available to the management.

33. Another witness on behalf of the Union/workmen is Shri Mahendra Chatterjee. He has supported the case of the Union. He has stated at para 34 in cross-examination that the Form B was prepared of all the 301 workmen under Mines Rules. He had signed over the Form B register. His evidence shows that at the time of initial appointment in the year 1980 form B was prepared of all the workmen including 100 workmen of the reference case. He has supported the facts that the workmen were reinstated on the identification of Shri Bannerjee and no dispute arose of

292 workmen. He has further stated that after reinstatement the management directed to all 301 workmen to furnish name and address for form B but all refused as Form B was prepared in the year 1980. He has denied that form B was prepared from the year 1992 to 1994. The management has filed incomplete Form B which are marked as Exhibit M/180 to M/279. These Form B Forms are not signed by the authority nor it were signed by the workers. Moreover the management had intentionally not mentioned the date of initial appointment of the workmen as adjudicated by the award dated 27-6-80 passed by the then Tribunal. Under the circumstances, these documents of the management are not said to be Form B unless it is fully completed. The evidence of this witness appears to be reliable that the personal particulars of the workmen were available with the management. He has further stated that in the year 1994 he received posting order and he went to join the place of posting but he was not allowed to join. His evidence shows that since he had not been permitted to join, the disclosure of personal particulars at the transfer place does not arise. The same case is of other workmen. It also shows that they are still ready to join at the transfer places. His evidence also corroborate the case of the Union/ workmen.

34. The Union/workmen has also adduced documentary evidence in the case. Exhibit W/2 is the letter dated 25-4-94 of the Mines Manager, Rawanwara Kha colliery whereby he had directed to the token clerk to mark attendance of 301 workers after verifying the photograph from Form B. This shows that the Form B register was in existence. Exhibit W/4 is another letter dated 25-4-1993 issued by Personnel Manager (Pench) to the Manager, WCL, Rawanwara Khas Colliery. This is filed to show that these workmen who were reinstated, are to be treated as Permanent workmen and all facilities are to be granted including leave as per permanent employees of the Mine. Exhibit W/5 is the provisional Identity Card issued to the workman Shri Mahendra. This is filed to show that token No. 922 was given. It is submitted that token number can only be given when Form B was prepared. This fact is also supported by the management witness Shri S.K. Puri at Para 22 that when any employee is appointed then after entry into Form B register, the token Number is issued. Thus it is clear that Form B was in existence and personal particulars were with the management.

35. Exhibit W/7(b) is the office order issued by the Manager, Rawanwara Khas Mine issued on 31-8-92. This is filed to show that the token numbers were given of the workers namely Shri Bharat and Shri Sajjad and the same was issued before his joining. This shows that form B register was in existence and therefore the token numbers are mentioned in the office order before his joining whereby he was allowed to mark their attendance. Exhibit W/10 to W/10 (a) are letters of reinstatement of Sharma S/o Tapasi and Shivshankar S/o Mahavir. These are filed to show that there was direction to report on duty within a month of the receipt of that letters. This shows that there was no direction to furnish personal particulars as it was available from the date of initial appointment. Exhibit W/11 to W/11(a) are the joining letters of the workmen at Pench East Incline.

36. Exhibit W/12 is the Interlocutory petition No. 4741 filed by the management in M.P. No. 2681/90 before the Hon'ble High Court and order dated 30-9-92 of the Hon'ble High Court. These are filed to show that the management submitted before the Hon'ble High Court for direction to the workmen to furnish personal particulars for filing Form B. The Hon'ble High Court after hearing the I.A. No. 4741/92 directed that it shall be considered at the time of final hearing. This is filed to show that in view of the direction of the Hon'ble High Court, non-compliance of the management to furnish personal particulars do not constitute misconduct. The oral and documentary evidence adduced by the Union/workmen show that the personal particulars of the workmen were with the management. It further shows that the workmen were not allowed to join at the transfer places and therefore the misconduct alleged to have been committed by the workmen appears to have not been established by the management. Moreover the burden to prove misconduct against the workmen was on the management and the management has also failed to prove the same.

37. The learned counsel for the management argued that it is crystal clear that the workers/claimants have deliberately refused to declare their personal particulars which are the identity of the individual. The learned counsel for the management has cited the decisions reported in 2002(1) LLJ 458 C. E. Tuticorin Thermal Power Station Vrs. Inspector of Labour, Tuticorin and others, 2011 (1) LLJ 3218, General Manager (OSD), Bengal Nagpur Cotton Mills, Rajnandgaon Vrs Bharatlal and another and 1996(II) LLJ 245, Secretary to Government, Prohibition and Excise Department Vrs. L. Srinivasan. These rulings are not applicable in the case. Specially because the identity of these workmen was finally concluded by the Hon'ble High Court in his order dated 23-3-05 at Para 14 passed in M.P. No. 2681/90. Secondly the Forms A, which are Paper Nos. 30/33 to 30/125 and are not denied by the management, clearly show that the personal particulars were disclosed when genuinely required for Forms A and the same were verified by the management for granting account nos. of Coal Mines Provident Fund. Thus it appears to be not justified to say that the workmen were not ready to declare their personal particulars and were not ready to join at the new places of transfer. Considering the entire evidence, I find that management has failed to prove misconduct. This issue is, therefore, decided in favour of the Union/workman and against the management.

38. Issue No. III

According to the management, it is pleaded that on the basis of enquiry report, the Disciplinary Authority brought on the record the termination of services of the 100 workmen by themselves w.e.f. 19-8-94 and also their refusal to comply with the requirement of Section 48(1), 48(3) and 48(1)(e) of the Mines Act, 1952 read with Rule 77 of the Mines Rules, 1955. Meaning thereby the management had not terminated them w.e.f. 19-8-94 rather the workmen were automatically terminated by themselves and the same is pleaded at para-13 in the Written Statement. The operative portion of the order dated 18-8-94 passed by the Dy. General Manager is as follows:—

"Hence on the basis or enquiry report, I am of the opinion that the Enquiry Officer has rightly held that they have terminated their reinstatement by their refusal to comply with requirement of Section 48(1), 48(3) and 48(1)(e) of Mines Act, 1952 read with Rule 77 of Mines Rule 1955 and violated provisions of Standing Orders in this connection. In view of the above, termination of their services by them is hereby brought on record w.e.f. 19-8-94, and money received by them from date of reinstatement to date of release from Pench East are recoverable from them, their property and their legal heir(s), jointly and/or severally, is also brought to record."

I find that there is no provision that in case the employee does not comply the order of the management, he is deemed to be terminated himself. Unless a termination order is passed after proper and valid enquiry in accordance with law. On this point also, the order dated 18-8-94 is fit to be vitiated. In this particular case, the management has failed to prove misconduct against the workmen. It appears that the management had not allowed to join these workmen at their transferred places, as such to consider their termination is illegal and unjustified. I find that the management's action was not legal and justified. This issue is also decided in favour of the workmen/Union and against the management.

39. Issue No. IV

Now the important question is as to whether the management is entitled to recover the amount received by them from the date of reinstatement to the date of release from Pench Area (East). According to the management, these 292 persons were not gainfully employed though taken in employment due to non-availability of any work on account of surplus manpower in Pench Area. It is further stated that non-compliance of the provisions of the Mines Act and rules made thereunder on the part of these 292 persons, the management could not even think of assigning any job to them and violated the statutory provision. On the other hand, the case of the Union/workmen is that after reinstatement, the management had taken work from them for two years in Pench Area (East) till transfer from that place. The further case of the Union is that inspite of work of Truck loaders, the management was taking works of Truck loader from the contractor. The management has not denied this pleading that the work of Truck loaders was not being taken from contractor in Pench Area (East). There is a contradictory pleading of the management, at one stage it is stated that there was no work for these workmen in Pench Area. On the other hand, a contradictory case is that the management could not even think of assigning any job to them. Moreover there is no denial that the works of Truck loader were being taken from contractors which appears to be of prohibited degree of work. This shows that the pleadings of the management is not consistent and there is no definite case.

40. Now let us examine the evidence adduced by the parties. The management witness Shri R.L. Singh Retired Sub Area Manager has also adduced contradictory evidence on the point of taking work from these workmen. At Para 15 in his evidence, he has stated that due to non-

compliance of the provisions of Mines Act and Rules, these workmen could not be legally assigned any job. At Para 19 in his evidence, he has stated that as no work was available at the place where these workmen were reinstated in compliance of the order of the Hon'ble High Court, they were transferred to different collieries namely Thesgora, Mathani, Vishnupuri-I and 2, Gajandoh and Mahadeopuri in Pench Area. This shows that there is contradictory case of the management and therefore it is difficult to rely the evidence of this witness that they had not worked at the place when it is established as discussed earlier that the personal particulars of the workmen were available to the management but the management had taken the same plea in this reference also that they were not at any time employed by the management which was already decided in R.43/82 vide award dated 27-6-90 and confirmed by the Hon'ble High Court vide order dated 23-3-2005 passed in M.P. No. 2681/90.

41. Another management witness namely Shri S.K. Puri was Dy.C.P.M (Manpower). He has stated in his evidence at para-17 that these workmen had not submitted their particulars, as such the management was forced not to take any work from them and kept them idle by making wages and they were paid the wages for the period from 1992 to 1994 for no work. This evidence is contradictory to the pleading of the management that there was no work at the place of reinstatement and therefore they were transferred to different Pench Area of the WCL. There is no evidence that what was prevented to the management to transfer them from Pench Area of WCL, after reinstatement when there was no work and the same was done after two years. On the other hand, it also appears that there was work of Truck loader at the places where they were reinstated but the same was being taken by the contractor. Thus it is clear that this was the fault of the management and not of these workmen. If they were not rightly deployed the workmen for work, the loss was to be realized from the authority of the management for their inefficiency. The evidence of this witness is not trustworthy which is in contradiction to the pleading of the management. Moreover there is a specific case of the Union/Workmen that these workmen did work for two years at the place of their reinstatement. There is no document of the management on the point that they were not deployed for any work at the place where these workmen were reinstated.

42. On the other hand, the Union/Workmen has adduced oral and documentary evidence to prove that they were deployed on work and when they were found absent from work, action was taken. The Union/Workmen witness Shri Mahendra Chatterjee has stated at Para 5 that he was working as per order at Rawanwara Khas/Pench East Mine for two years and when he was absent, the management took action and deducted his salary. He has stated that these workmen had received bonus, profit, bonus and leave etc. He has also supported his evidence in cross examination at Para 48 that in the year 1992 there were posts of truck loaders at Pench East and Rawanwara Khas Colliery. Thus his evidence shows that he was working at the place where he was reinstated by the management.

43. The Union/Workmen have also adduced documentary evidence to show that they had worked at

the place where they had been reinstated. Exhibit W 3 are showcause notice given to the workman Shri Mahender. This is filed to show that he became absent from duty from 3-5-92 to 28-8-92 and it shows that he was engaged on work. Exhibit W/3(a) is showcause notice to another workman namely Abhinand for his absence from work. Exhibit W/1 is the office order dated 30-11-92 whereby the workman Shri Mahender was allowed to resume his duty w.e.f. 1-12-92. Exhibit 6 and 6(a) are the office orders dated 30-8-93 and 19-12-93 whereby the workmen Gautam Chand and Sarabjeet were released for full day from 3-9-93 to 12-9-93 and from 26-12-93 to 30-12-93 alongwith other workers to participate in the Inter Area Football Tournament. This shows that they were treated as on work during the said period by the management for sports and they were entrusted to do work at the place of reinstatement.

44. Exhibit W/7 and 7(a) are the office order whereby the workmen Ramkishan and Sharma were allowed on duty w.e.f. 11-4-92. This is filed to show that they were working at the place of reinstatement and there was no such direction that they would be simply present without work. Moreover the token numbers are also indicated in the office orders. This shows that the Form B was in existence and before joining at the place of reinstatement there was token members of the workmen. The documents (Exhibit M/180 to M/279) filed by the management are not said to be form B because it was not signed by the authority nor it was signed or any L.T.I was given on the said documents by the workmen unless it was not completed it cannot be treated as Form B. Thus Exhibit 7 and 7(a) also establish that the workmen were engaged on work. Exhibit W/13 to 13(d) are warning letters to the workmen Harimandan, Ram Gobind, Rarnpati, Banarsi and Sayed respectively. These are filed to show that they were absent from work and therefore they had been warned. It is submitted by the learned counsel for the workmen that this shows that the work was being taken from them by the management at the place of reinstatement and when they became absent action were taken.

45. Exhibit W/15 is a certificate of the workman Gautam Chand and Sarabjeet that they were working at Pench East Incline as Piecerated employee. This is filed to show that they were deputed on work by the management. Exhibit W/16 is an office order of Mines Manager whereby 28 workmen were allowed to join on their duty and there was no such order that they would be simply present in duty hours. This is filed to show that the duty was assigned to them to work at Rawanwara Khas Colliery. Thus from the oral and documentary evidence adduced by the parties, it is clear that these workmen after reinstatement were deputed on work. The management is not justified to recover any amount paid to these 100 workers during the period from the date of reinstatement to the date of release from Pench Area (East). This issue is decided in favour of the Union/Workmen and against the management.

46. Issue No. V

Now the important point is as to whether the workmen are gainfully employed after termination from services w.e.f. 19-8-94. The witness of the workmen namely Shri Rajnu Paswan has stated at para-13 that all the 99 workers have not been employed anywhere since the date of termination. It appears that there is no cross-examination on the above

evidence. There is no reason to disbelieve this evidence that the workmen are not gainfully employed after termination. Another witness of the Union Shri Mahender Chatterjee has also stated at para 27 in his evidence that after termination w.e.f. 19-8-94, he is unemployed. He is cross-examined at length. He has stated in his cross-examination that he and his family are living alongwith his parent and his needs are met by the parent who has a business. This also shows that he is not gainfully employed during the period of termination and he and his family are dependent on the parent.

47. Considering the discussion made above, it is clear that the action of the management in considering the workmen terminated w.e.f. 19-8-94 is not legal and justified. As such the order dated 18-8-94 whereby the management had considered the workmen terminated from their services is set aside. The management is directed to reinstate the workmen w.e.f. 19-8-94 with all back wages and other consequential benefits. It is further directed that the management is not entitled to recover the money received by the workmen from the date of reinstatement to the date of release from Pench East. It is further directed to allow all the workmen to join at the new places of transfer within one month from the receipt of the award by the Union/ Workmen. Accordingly the reference is answered.

48. In the result, the award is passed without any order to costs.

49. Let the copies of the award be sent to the Government of India, Ministry of Labour and Employment as per rules.

MOHD. SHAKIR HASAN, Presiding Officer

नई दिल्ली, 13 मार्च, 2012

का.आ. 1278.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सिडिकेट बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/ श्रम न्यायालय, बंगलौर के पंचाट (संदर्भ संख्या 42/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-02-2012 को प्राप्त हुआ था।

[सं. एल-12011/99/2002-आईआर(बी-II)]

शीश राम, अनुभाल अधिकारी

New Delhi, the 13th March, 2012

S.O. 1278.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 42/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Bangalore as shown in the Annexure in the Industrial Dispute between the employees in relation to the management of Syndicate Bank, and their workman, which was received by the Central Government on 10-2-2012.

[No. L-12011/99/2002-IR (B-II)]

SHEESH RAM, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated : 13th January 2012

Present : Shri S. N. Navalgund Presiding Officer
C. R. No. 42/2002

I Party	II Party
The General Secretary, Syndicate Bank Staff Association, Anand Plaza, 2nd Floor, Near Anand Rao Circle, Bangalore-560009	The General Manager (P), Syndicate Bank, Head Office, Manipal-576119 Karnataka State

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section(1) and Sub-section 2A of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) has referred this dispute vide order No. L-12011/99/2002-IR (B-II) dated 12-8-2002 for adjudication on the following Schedule :

SCHEDULE

“Whether the action of the management of Syndicate Bank is justified in reducing the basic pay of Smt. Sunanda Srinivasan, Ex.Clerk by one stage w.e.f. 18-01-2001 is justified? If not, what relief Smt. Sunanda Srinivasan is entitled to and from which date?”

2. After completion of the pleadings and also the evidence of the parties today a joint memo signed by the first party workman involved in the reference, his advocate and the second party counsel came to be filed to the effect that they have agreed punishment of reduction in the basic pay by one stage for a period of one year would be substituted by punishment of warning and the restoration of one stage of pay would be reckoned for the purpose of gratuity and pension and the workman will not make further claim including interest thereon. Pursuant to this joint memo the reference came to be closed today. Hence as per the joint memo referred to above, I pass the following award:

AWARD

The reference is partly allowed as per the joint memo filed by the first party workman involved, his counsel and the second party advocate the punishment of reduction in the basic pay by one stage for a period of one year is substituted by the punishment of Warning with further order for restoration of one stage of pay for the purpose of Gratuity and Pension and that concerned workman shall not make any further claim including interest thereon.

(Dictated to PA transcribed by her corrected and signed by me on 13-01-2012).

S. N. NAVALGUND, Presiding Officer

नई दिल्ली, 14 मार्च, 2012

का.आ. 1279.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मध्य रेलवे प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, मुख्यमंत्री के पंचाट (संदर्भ संख्या 2/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-03-2012 को प्राप्त हुआ था।

[फा. सं. एल-41012/318/2003-आई आर (बी-1)]
रमेश सिंह, डेस्क अधिकारी

New Delhi, the 14th March, 2012

S.O. 1279.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 2/2007) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Mumbai as shown in the Annexure, in the industrial dispute between the management of Central Railway, and their workmen, received by the Central Government on 14-03-2012.

[F. No. L-41012/318/2003-JR (B-I)]
RAMESH SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1 MUMBAI

Justice G. S. Sarraf, Presiding Officer.

Reference No. CGIT-1/2 of 2007

PARTIES :

Employers in relation to the management of Central Railway

AND

Their Workman (Raj Kumar Sharma)

APPEARANCES :

For the Management : Shri Abhay Kulkarni, Adv.

For the workman : Shri M. B. Anchan, Adv.

State : Maharashtra

Mumbai, dated the 28th day of February, 2012

AWARD

This is a reference made by the Central Government in exercise of its powers under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947. The terms of reference given in the schedule are as follows :

Whether the industrial dispute raised by Shri Raj Kumar Sharma against the management of Divisional Railway Manager, Central Railway, Mumbai vide his

representation dated 8-11-2001 (copy enclosed) over termination of his service is justified ? If yes, to what relief the workman is entitled to ?

According to the statement of claim submitted by the workman he was appointed as a sub-bungalow peon in the grade of 750-940 w.e.f. 15-11-1996 by the Central Railway, Mumbai, CSTM after following the due process of selection. He was posted at the bungalow of Shri M. L. Verma, Deputy Chief Mechanical Engineer. Shri Verma expired on 1-3-1999. After Verma's death he was asked to continue at the bungalow of Shri Verma for one month. Thereafter he was asked to work with Deputy Chief Engineer (Safety), Engineering Department. Since the office of Deputy Chief Engineer refused to take him on duty he was directed to work in the office of Chief Personnel officer from 1-4-1999 where he attended the office from 9.30 a.m. to 6.00 p.m. However, he was not paid his wages from 1-3-1999. He approached the Central Administrative Tribunal, Mumbai and filed OA No. 82 of 2000. The CAT dismissed his claim and directed the Railway Administration to consider his case for appointment as a bungalow peon. Subsequently, by order dated 22-11-2000 he was taken back in service as a sub-bungalow peon. He filed another OA No. 176 of 2001 in the CAT for his regularization. When the OA was pending the Railway Administration terminated his services by order dated 12-3-2001 without any notice and without assigning any reason and also without payment of retrenchment compensation. The CAT dismissed his OA on 2-5-2001 on the ground that he had not completed 3 years of service. Aggrieved, he filed writ petition No. 3699 of 2002 which was also dismissed by honourable High Court by order dated 16-7-2002. The management sanctioned his wages for the period from 1-3-1999 to 1-9-1999 to the amount of Rs. 26,394 but the same were not paid to him. According to the statement of claim the workman has worked as sub-bungalow peon from 15-11-1996 to 11-3-2001 and his termination of service is illegal, invalid and unjustified. He has, therefore, prayed that he be reinstated in service with full back wages and continuity of service.

The management has filed written statement wherein it has stated that the reference is barred by principles of res judicata and estoppel. According to the written statement the appointment of the workman was never permanent in nature and on the death of Mr. Verma the management had no choice but to strike off his name from the muster roll. The workman challenged the said action of the management before Central Administrative Tribunal, Mumbai by way of filing OA No. 82 of 2000 and the Tribunal, by order dated 28-7-2000, directed the management that if the workman made an application for appointment within a month the Railway Administration would consider his case for further appointment as per his eligibility and as per rules and subject to his service record in case of any vacancy. The Railway Administration considered the case of the workman and appointed him as substitute bungalow peon with Mrs.

R. G Menon, Deputy Chief Personnel Officer (Commercial) by letter of appointment dated 22-11-2000. The workman filed another O.A. in CAT for his regularization. The period of the said post lapsed on 1-3-2001 and further sanction was not received, therefore, the services of the workman were terminated by order dated 12-3-2001. The Tribunal by order dated 2-5-2001 dismissed the OA. Aggrieved, the workman filed a writ petition in the High Court which was also dismissed by order dated 16-7-2002. The workman has raised the same grounds which have already been rejected by the CAT and the High Court. The management has therefore, prayed that the statement of claim filed by the workman be rejected.

The workman filed rejoinder wherein he reiterated his stand.

Following issues have been framed.

- (1) Whether the reference is barred by principles of res judicata ?
- (2) Whether the industrial dispute raised by Shri Raj Kumar Sharma against the management Divisional Railway Manager, Central Railway, Mumbai vide his representation dated 8-11-2001 over termination of his service is justified ?
- (3) What relief the workman is entitled to ?

The workman has filed his affidavit and he has been cross-examined by learned counsel for the management. The management has filed affidavit of Smt. Onima Nicholas Korda who has been cross-examined by learned counsel for the workman.

Heard Shri Anchan learned counsel for the workman and Shri Abhay Kulkarni learned counsel for the management.

Issue No. 1 : It appears that the workman was appointed substitute bungalow peon vide order dated 15-11-1996 and he was posted at the bungalow of M. L. Verma, Deputy Chief Mechanical Engineer. Shri Verma unfortunately expired on 1-3-1999 and thereafter the services of the workman discontinued. The workman filed an OA in Central Administrative Tribunal Mumbai the Tribunal by order dated 28-7-2000, directed the management to consider the case of the applicant for further appointment as per his eligibility and as per rules subject to the record of his service in case of any vacancy and the workman was directed to make an application for this purpose within one month which could be decided by the management as per rules. The workman applied for the job and he was appointed w.e.f. 22-11-2000. In 2001 the workman filed another OA No. 176/2001 in the Central Administrative Tribunal, Mumbai for regularization. The workman was terminated by order dated 12-3-2001 whereas the OA filed by the

workman was dismissed by the Central Administrative Tribunal by order dated 2-5-2001. The order of the Tribunal has been upheld by the High Court and the writ petition No. 3699 of 2001 filed by the workman has been dismissed. The workman is now raising the same dispute regarding his termination and regularization again before this Tribunal. He cannot be allowed to litigate before different forums successively raising the same issue. The reference is thus barred by principles of res judicata.

The issue is, therefore, decided against the workman.

Issue No. 2 : Since issue No. 1 has been decided against the workman, therefore, the industrial dispute raised by the workman vide his representation dated 8-11-2001 over termination of his services is not at all justified.

The issue is decided against the workman.

Issue No. 3 : The workman is not entitled to any relief.

ORDER

It is held that the workman is not entitled to any relief and the award is passed accordingly.

Justice G. S. SARRAF, Presiding Officer

नई दिल्ली, 14 मार्च, 2012

का.आ. 1280.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एस. सी. सी. एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, हैदराबाद के पंचाट (एलसीआईडी संख्या 44/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-03-2012 को प्राप्त हुआ था ।

[फा. सं. एल-22013/1/2012-आई आर (सी-II)]
डी. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 14th March, 2012

S.O. 1280.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad (CGIT/LCID/44/2005) as shown in the Annexure, in the industrial dispute between the Employers in relation to the management of SCCL and their workmen which was received by the Central Government on 14-03-2012.

[F. No. L-22013/1/2012-IR (C-II)]
D. S. S. SRINIVASA RAO, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
AT HYDERABAD**

PRESENT:

Shri Ved Prakash Gaur, Presiding Officer.

Dated, the 7th day of February, 2012

INDUSTRIAL DISPUTE L.C. No. 44/2005**BETWEEN**

Sri Goleti Narayana,
S/o. Laxmaiah,
R/o. 7-2-533/625,
Ganganagar Colony,
Godavarikani.

... Petitioner

AND

1. The General Manager,
M/s. Singareni Collieries Company Ltd.,
Ramagundam Area-I,
Karimnagar District.
2. The Colliery Manager,
M/s. Singareni Collieries Company Ltd.,
Godavarikhani II A Incline,
Karimnagar District. ... Respondents

APPEARANCES:

For the Petitioner : M/s. G. Vidya Sagar, K.
Udaya Sri, P. Sudheer Rao
and D. Madhusudhan,
Advocates.

For the Respondent : M/s. P.A. V.V.S. Sarma and
Vijaya Laxmi Panguluri,
Advocate.

AWARD

This petition under Section 2A (2) of the I.D. Act, 1947 has been filed by Sri Goleti Narayana to set aside order of dismissal dated 12-12-2004 as illegal, arbitrary, disproportionate and violative of principles of natural justice.

2. It is alleged by the Petitioner in the claim statement that he was appointed as badli filler in 1987 and his services were regularized in the year 1992. As he was promoted as general mazdoor/bunker chainer, he discharged his duties with utmost care and satisfaction without any adverse remarks. While doing so he was served with the charge sheet vide proceeding dated 19-8-2004 alleging the following charges :

25(1) : Theft, fraud or dishonesty in connection with employer's business of property.

25(23) : Any willful and deliberate act which is subversive of discipline or which may be detrimental to the interest of company.

25(24) : Sabotage of causing willful damage to work in progress or to property of the company.

3. The Petitioner submitted his explanation, stated therein that while discharging his duty on 30-7-2004 III shift at about 6 A.M., he verified the papers of four lorries which were found in order. However, the lorry bearing No. AIW-4143 did not produce permit paper, the driver of lorry told the Petitioner that the papers are with cleaner. He had asked driver to bring papers and permit and by that time driver loaded the lorry with the coal. The Petitioner stopped the lorry and the same was seized by company officials. In the mean time the lorry driver left the place of occurrence and did not come back. The Petitioner informed Mr. Patel, U/Manager that one lorry has taken the load without permit and that lorry is detained at bunker. Petitioner alleged that Mr. Samson and Mr. Raji Reddy were present when the Petitioner informed to U/manager who immediately visited the spot. However, a criminal case was booked against the Petitioner and police submitted charge sheet which is pending before Hon'ble Judicial Magistrate of Godavaikhani. Lorry was seized the officials. It is alleged that the Department without considering the factual matrix ordered for domestic enquiry. Sri E. Kumara Swamy was appointed as Presenting Officer, Sri SLGG Sanjeeva Rao, Sr. Inspector, S & PG RG I on behalf of the management. Petitioner examined himself in his defence and upon the conclusion of the enquiry the Enquiry Officer submitted that the charges against the Petitioner were proved. A show cause notice was issued to the Petitioner to submit his explanation against the finding of the Enquiry Officer. However, without considering the submissions made by the Petitioner the Disciplinary Authority passed the order of dismissal. Hence, this petition.

4. Management has filed counter statement. Wherein the maintainability of the petition was challenged. It was alleged that the Petitioner was on duty at lorry bunker, as bunker chainman on 30-7-2004 at 6 P.M. in third shift and he issued coal to an unauthorized lorry bearing No. AIW 4143 which was not having permit to take the coal. Thus, Petitioner has fraudulently issued the coal to the lorry without ensuring the availability of the valid challan/permit causing loss to the company's property. A charge sheet dated 31-7-2004 was issued to him under company's Standing Orders No. 25(1), 25(23) and 25(24). The Petitioner committed an act of theft, fraud and loss to the company's property. The matter was inquired by the management, domestic enquiry held and Petitioner was afforded opportunity to present his case. Management was also asked to present his version before the Enquiry Officer. Both parties participated in the proceeding. After the

evidence before the Enquiry Officer, the Enquiry Officer has concluded that the charges against the Petitioner were proved. Petitioner caused loss to the Respondent's property thereby committed misconduct defined in clause No. 25(1), 25(23) and 25(24) of the Standing Order. Petitioner was called upon to explain his conduct and submit explanation against the finding of the Enquiry Officer which he did submit. After considering the enquiry report and explanation of the Petitioner Disciplinary Authority has passed the order of dismissal which is neither disproportionate nor excessive. In the given case the order of dismissal is the only proper punishment. It is neither illegal, nor arbitrary nor excessive or violative of principles of natural justice. Petition has got no force, hence, deserves to be dismissed.

5. Both the parties were directed to produce their evidence. Management has produced the entire proceeding book of the enquiry proceeding and the Petitioner has filed copy of order of dismissal, copy of the chargesheet, his own explanation and representations. My Learned Predecessor took up the matter of validity of domestic enquiry before deciding the claim of the Petitioner on merit. He by his order dated 3-5-2006 has opined that the domestic enquiry conducted in this case was legal and valid and posted the matter for arguments.

6. Learned Counsel for the Petitioner has filed copy of the judgement passed in criminal case No. 348/2004 pending before the Judicial Magistrate, Manthani in the matter between the State through SGO and Mabbu Rajesham and others under Section 379 of IPC wherein Judicial Magistrate has concluded that the prosecution was failed to prove the guilt of the accused and accused are entitled to get the benefits of doubt thereby he, Mr. M. Rajesham, N. V. Reddy and G Narayana are acquitted.

7. Both the parties have made their oral submissions before this Tribunal. I have heard them at length and have perused the record.

8. This Tribunal has to consider the following points :

- (I) Whether the order of dismissal against the Petitioner dated 12-12-2004 is illegal, arbitrary and disportionate ?
- (II) Whether the Petitioner has committed the act of misconduct under No. 25(1), 25(23) and 25(24) of Standing Orders ?
- (III) Whether the punishment imposed upon the Petitioner is excessive and arbitrary ?
- (IV) To what relief if any, the Petitioner is entitled ?

9. Point No. (I) & (II) : It has been alleged by the Petitioner that his termination order is illegal, arbitrary and violative of principles of natural justice because he has not

committed any misconduct nor there was any evidence before the Enquiry Officer to conclude that the Petitioner has committed the misconduct defined under para 25(1), 25(23) and 25(24) of the Standing Orders. As against this allegation of the Petitioner it has been alleged by the Respondent management that the petitioner was performing the duty of bunker chainman. On the alleged date of misconduct he was working in the third shift at about 6 A.M., a lorry bearing No. AIW 4143 entered in the bunker without having any permit or valid documents, the Petitioner loaded with coal the lorry knowing fully well that the lorry was not having any valid documents. Not only that the Petitioner permitted the lorry owner to take away the lorry which was detained by personnel of bunker's gate, chargesheet was served on the Petitioner. Enquiry was ordered, he participated in the enquiry. Enquiry Officer submitted his report holding the Petitioner guilty of causing loss to the company by his act of omission and commission. On the basis of the finding of the Enquiry Officer, Disciplinary Authority has imposed punishment of removal from the service which is in proportion to the misconduct committed by the petitioner workman. He has further argued that the legality and validity of domestic enquiry was considered first and this Tribunal by its order dated 3-5-2006 has opined that the domestic enquiry conducted was valid and legal as such, this Tribunal can not go beyond the opinion expressed by its predecessors and it cannot substitute any other opinion in place of the opinion already expressed by the predecessor of this court.

10. I have considered the above argument and allegation made in the claim an counter statements and documents available on the record. From the documents and order of my Learned Predecessor dated 3-5-2006 it is proved that while working on 30-7-2004 in the third shift at 6 A.M. lorry bearing No. AIW 4143 was loaded in presence of the Petitioner. Lorry owner was not having any documents. This contention has been made by Petitioner himself in para 5 of the claim statement. The Petitioner himself has alleged that he asked the lorry owner to bring the documents as the lorry owner informed him that the documents are with the cleaner. But the allegation made in the claim statement does not disclose that Petitioner made any attempt to stop the owner from loading the lorry with the coal or that he insisted upon the lorry owner to bring and produce the documents first and then load the lorry with the coal. This amply prove that petitioner was in connivance with the lorry owner, he intentionally allowed the lorry owner to load the lorry with the coal and frisk away with loaded lorry. This material fact is full proved during course of the domestic enquiry and this aspect of the matter proved that the Petitioner has enacted dishonesty in connection with the employer's business or property and he has willfully and deliberately acted in subversive manner which was detrimental to the interest of the company and the Enquiry Officer was well within the

jurisdiction and he has rightly arrived at the conclusion that Petitioner has committed misconduct as defined in under para 25(1), 25(23) and 25(24) of the Standing Orders.

11. The Petitioner has not produced a single piece of paper or any material before this Tribunal that there was no connivance on the part of the Petitioner in the act of the loading of the lorry having no proper or he attempted to stop the lorry owner from filling the lorry with coal. Thus, the Petitioner's allegation that Enquiry Officer has committed illegality is not tenable in the eye of law. Moreover, my Learned Predecessor already concluded that the Enquiry Officer has conducted the enquiry in a legal and valid manner and has based the finding on valid and relevant material placed before him. This Tribunal is of the considered opinion that once the Predecessor has held that the enquiry was conducted in legal and valid manner. This Tribunal can not sit in appeal against the order passed by my Learned Predecessor and this Tribunal is bound by the opinion arrived at by the Predecessor.

12. Under Section 11A of the Industrial Disputes Act, 1947 the Tribunal is empowered to look into the legality and arbitrariness in passing the order of dismissal, but unless this Tribunal is of the opinion that the Disciplinary Authority has acted in such a manner which cannot be approved by the conscience of a prudent man this Tribunal cannot impose a punishment otherwise than that imposed by the Disciplinary Authority. In the present case, the Petitioner workman has not been able to bring before this Tribunal any such material or point which may prove that the punishment imposed by the Disciplinary Authority was disproportionate or it was not approved by the conscience of a prudent man, this Tribunal cannot impose any alternate punishment.

13. It has been argued by the Learned Counsel for the Petitioner that a criminal case was registered against the Petitioner and two others and the Petitioner was tried for the offence of theft, for the act committed by him on 30-7-2004 at 6 A.M. and he has been acquitted by the criminal court. As such, he should be given the benefit of the acquittal order. He has filed copy of the acquittal order passed by the court of Judicial Magistrate First Class in CC No. 348/2004 in the matter between State through SHO Vs. M. Rajesham and others passed on 31-12-2008. I have considered this argument and I have also gone through the judgement passed by the Learned Bench but, I am not convinced with the argument of the Learned Counsel for the Petitioner that since the Petitioner has been acquitted from the criminal court he should not be punished for the misconduct committed by him. Because the criminal proceedings and departmental enquiry are two different proceedings. In criminal case the prosecution has to prove the guilt of the accused beyond all reasonable doubts. Unless the prosecution proves the guilt beyond reasonable doubt the criminal court will not inflict punishment on an

accused person. Whereas in the matter of departmental enquiries the burden of proof and standard of the evidence is something otherwise. In departmental enquiry only probability and preponderance of an act committed by the charge sheeted employee has to be proved. In the present case the management has proved before the Enquiry Officer by its evidence and admission and statement of the Petitioner that Petitioner intentionally and deliberately caused loss to the company's property and he dishonestly and fraudulently acted in connection with the business, properties of the management. Thus, even if the Petitioner has been acquitted from the criminal court from the charges of the theft, the decision of the criminal court will not give any benefit to the Petitioner in the matter of domestic enquiry and in the matter of misconduct committed by him.

14. Thus, this Tribunal has considered all the material and argument advanced by both the sides and have come to the conclusion that there is no illegality or arbitrariness or violation of principles of natural justice in imposing the punishment to the Petitioner. Point Nos. (I) and (II) are answered accordingly.

15. Point Nos. (III) & (IV) : From the evidence available on this record and charges framed against the Petitioner, it has been found that management has not imposed excessive punishment. The Petitioner was custodian of the property of the management, he acted against the interest of the management fraudulently and dishonestly causing damage to the property of the management deliberately by his own act as such, on the proved facts of misconduct the management has rightly imposed the punishment of dismissal. In my opinion, the punishment imposed by the management is neither disproportionate nor excessive. Petitioner does not deserve any sympathy or leniency from this Tribunal. Point Nos. (III) & (IV) are answered accordingly.

16. From the above discussion, this Tribunal has come to the conclusion that no relief is required from this Tribunal to the Petitioner Sri G Narayana, hence, Petition deserves to be dismissed and it is dismissed.

Award passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant transcribed by her corrected by me on this the 7th day of February, 2012.

VED PRAKASH GAUR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
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NIL

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 14 मार्च, 2012

का.आ. 1281.—औद्योगिक विवाद अधिनियम, 1947 (1947 वा 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एफ.सी.आई. के बंधनतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में विद्युत औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/अम गवालय, अरनाकुलम् के पंचाट (आईडी संख्या 14/2009) को अधिशिन करती है, जो केन्द्रीय सरकार द्वारा 14-3-2011 को प्राप्त कर दी गई।

[का. सं. एस-22013/1/2012-आई आप. (का-1)]
डी.एस.एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 14th March, 2012

S.O. 1281.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Complaint No. 14/2009) of the Central Government Industrial Tribunal-Cum-Labour Court, Ernakulam as shown in the Annexure in an Industrial Dispute between the employers in relation to the management of the FCI and their workmen, which was received by the Central Government on 14-3-2012.

[F. No. L-22013/1/2012-IR (C-II)]
D.S.S. SRINIVASARAO, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM

PRESENT:

Shri D. Sreevallabhan, B.Sc., LL.B., Presiding Officer
(Friday the 24th day of February, 2012)

I.D. No. 14/2009

Unions : 1. Shri K. T. Sasi,
Convenor,
FCI Workers Association (CITA),
Chingavanom, Channanikadu
P.O. Kettayam

2. Shri P. K. Sasi,
Organising Secretary,
FCI Workers Union,
Chingavanom, Channanikadu
P.O. Kettayam

By Adv. Shri Santosh G. Prabhu

Management : 1. The Area Manager,
Food Corporation of India,
District Office,
Chingavanam, Kerala

2. The General Manager,
Food Corporation of India,
Regional Office,
Kersavadasapuram,
Thiruvananthapuram

By Adv. M. R. Anison

This case coming up for final hearing on 21-2-2012 and this Tribunal-cum-Labour Court on 24-2-2012 passed the following.

AWARD

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government has referred this industrial dispute for adjudication to this tribunal.

2. The dispute is :

“Whether the action of the management in making recovery from the wages of 36 workers (list enclosed), on account of demurrage charges levied by the Railways on the management of FCI, is legal & justified ? To what relief are they entitled for ?”

3. Management is the Food Corporation of India, a Central Government undertaking incorporated under the Food Corporations Act, 1964, entrusted with the responsibility of procurement, movement, storage and distribution of foodgrains. Two unions of the D.P.S. workers in the Chingavanam depot of the management raised the industrial dispute representing the 36 D.P.S. workers in the list attached to the reference order. Challenge is made with regard to the order of the management to recover the amount of Rs. 4,725 paid as Demurrage Charges (D.C.) to the railway from their wages for the month of January 2008.

4. D.P.S. workers are engaged by the management in Kerala Region for handling foodgrains in its godowns and railway heads. Direct Payment System was implemented in the depot of the management at Chingavanam on 1-1-1997 as per the Circular No. IR(L)/8(22)/94, dated 14-6-1996. Their normal working hours is from 10 A.M. to 5.30 P.M. But they have to attend the work beyond the normal working hours and on weekly off days with overtime wages since the wagons placed by the railway are to be loaded or unloaded within the free time allowed by the railway.

5. Intimation was given to the D.P.S. workers by issuing memo dated 27-9-2007 as to the placement of 30 wagons at the Food Corporation of India siding in Chingavanam on 28-9-2007 and directing them to attend the unloading work at 6 A.M. on that day. Out of the 123 D.P.S. workers only 87 were present on that day to unload the articles from the 30 wagons and hence the

clearance of the wagons was completed only by 4 P.M. An amount of Rs. 6,750 was levied by the railway as D.C. from the management and later it was reduced to Rs. 4725 by granting 30% waiver. Memo was issued to the 36 absentee workmen calling upon them to submit their explanations for not recovering the D.C. from them. Dissatisfied with the explanations submitted by them, the management decided to recover Rs. 131.25 each from their wages for the month of January 2008.

6. In the claim statement the action of the management to recover the D.C. from them is challenged by stating that it is arbitrary, illegal, unjust and is in violation of the provisions of the Industrial Disputes Act and Rules and also the Model Standing Orders under the Industrial Employment (Standing Orders) Act. There is no provision in the circular dated 14-6-1996 for the implementation of the Direct Payment System to recover the D.C. from the wages of the workman. All the workmen listed in the reference had submitted leave applications and they had not unauthorisedly absented themselves from attending the duty on 28-9-2007. They have not caused any loss to the management and the management is not entitled to recover the D.C. from them.

7. In the written statement management would contend that as per the modified instructions to the Circular dated 14-6-1996 whenever D.C. is incurred by the Food Corporation of India due to the failure of D.P.S. workers to clear the wagons in time the same can be recovered from the erring workers. 30 wagons were placed for unloading at the Food Corporation of India siding in Chingavanam at 6 A.M. on 28-9-2007 after giving intimation in advance to the workers on 27-9-2007. Out of the 123 D.P.S. workers 87 were present on 28-9-2007 and the remaining 36 unauthorisedly absented themselves without applying for leave in advance. They are habitual absentees who had deliberately avoided attendance of duty on that day. If they had attended the duty the clearance of the wagons could have been completed within the free time. It is the deliberate non-attendance of duty on the part of those D.P.S. workers which resulted in incurring the D.C. and hence the management is entitled to recover the same from the wages of those workmen.

8. Unions 1 and 2 separately filed rejoinder denying the contentions in the written statement and reaffirming the allegations in the claim statement jointly filed by the two unions.

9. For the purpose of deciding this reference one witness was examined from the side of the unions as WW1. From the side of the management one witness was examined as MW1 and Exts. M1 to M22 were got marked.

10. The points for determination are :

- (1) Whether the demurrage charges was incurred due to the deliberate non-attendance of duty

by the 36 D.P.S. workers in the list attached to the reference order ?

- (2) Whether the action of the management to recover the demurrage charges from the wages of those workers is legal and justified ?
- (3) What relief, if any, they are entitled to ?

11. **Point No. 1 :** It is not in dispute that 30 wagons were placed by the railway at the Chingavanam siding for unloading at 6 A.M. on 28-9-2007 and the same were not unloaded within the free time allowed by the railway. Railway claimed Rs. 6,750 towards D.C. for the extra three hours by issuing Ext. M4 bill and the same was subsequently reduced to Rs. 4,725 by granting 30% waiver. It is the case of the management that D.C. was incurred since the 36 D.P.S. workers unauthorisedly absented themselves from attending the duty in spite of Ext. M3 intimation given to them about the expected placement of the wagons on that day. According to the unions all of them had submitted leave applications for their absence on that day and some of them were on leave during the preceding and succeeding days.

12. According to the management seven of them have not applied for any leave for that day, sixteen have not applied for leave in advance but submitted leave applications on 28-9-2007 or afterwards and out of the remaining thirteen, seven were on continuous leave during that time on medical ground and they had rejoined duty after leave. From the remaining six, one was on leave from 23-8-2007 to 4-1-2008 and resigned from service on 5-1-2008. Disciplinary action was taken against the three out of the remaining five for their continued long absence. The remaining two were on leave from 27-7-2007 to 18-10-2007 due to accident occurred while on duty.

13. Ext. M10 series are the leave applications of the above said 16 D.P.S. workers for 28-9-2007 coupled with one or two in some of the applications submitted on 28-9-2007 and afterwards. Ext. M11 series are the leave applications submitted by the DPS workers who were on continuous long leave during that time. Some of those applications are seen submitted after 28-9-2007. In the proof affidavit of MW1 it is averred that they had rejoined duty after the continued absence from duty.

14. Leave applications submitted by the 16 D.P.S. workers have not been granted or rejected. It is not seen that the leave application is to be submitted in advance always for granting leave. Majority of the leave applications in Ext. M10 series is seen to have been submitted on 28-9-2007. As per the terms of Ext. M2 which contains the conditions of service of the D.P.S. workers they are entitled to sick leave for 10 days in a year. There is nothing to show that there is any prescribed form for submitting leave application. There is no stipulation in Ext. M2 to the effect that leave application is to be submitted

in advance. It has come out in evidence that leave applications submitted after availing the leave were granted. Without the rejection of Ext. M10 series leave applications it is not possible to arrive at a conclusion that the sixteen D.P.S. workers had unauthorisedly absented themselves. Except seven D.P.S. workers all other absentee workers on 28-9-2007 other than the one who resigned had submitted leave applications for availing leave on 28-9-2007. Management has indiscriminately ordered to recover the debarge charges equally from the absentee workers who had submitted leave applications and from those who had not submitted leave applications without assigning any reason.

15. Ext. M7 is the memo dated 18-10-2007 seen to have been issued on 31-10-2007 to the 36 D.P.S. workers calling upon their explanations for their unauthorized absence on 28-9-2007 and for the proposal for recovery of the D.C. of Rs. 6,750 equally from them. Though they had submitted their explanations any of those explanations was produced in this case. In Ext. M9 proceedings dated 7-1-2008 no reason is stated for the finding that the explanations are not convincing or satisfactory. As the D.P.S. workers had submitted leave applications and the same are pending without any orders the case put forward by the management that no leave application was submitted by them as such cannot be accepted.

16. Habitual absenteeism of some of the D.P.S. workers on the dates of placement of wagons is stated to be a reason for levy of D.C. from the D.P.S. workers. If there is habitual absenteeism without any valid reason on the part of the D.P.S. workers the management can initiate action as per Clause 15 of Ext. M2. Such action is seen to have been taken against one Shaji and the same is evidenced by Ext. M12 to M14. It is nowhere provided that habitual absenteeism is a reason for rejection of leave application. It may be considered for the purpose of considering the genuineness of the ground stated in the application. Since the leave applications were not granted or rejected it cannot be said that those D.P.S. workers who submitted leave applications had unauthorisedly absented themselves on 28-9-2007. The absenteeism of the D.P.S. workers who submitted leave applications and those who have not submitted leave applications was not considered distinctly while passing order for recovery of the D.C. from the absentee D.P.S. workers. The genuineness of the ground given in the leave applications has not yet been considered by the management. Some of the D.P.S. workers who were in continued absence is seen to have been permitted to join duty after the expiry of the period of leave. Without any consideration of the individual situation independently and solely stating that they had unauthorisedly absented from duty without any enquiry D.C. was ordered to be recovered from their wages.

17. It is the case of the management that if the absentee D.P.S. workers on 28-9-2007 were on duty all the

wagons placed on that day could have been unloaded within the free time without incurring D.C. Instances are pointed out in the written statement and evidence was also adduced to satisfy that the D.P.S. workers were unloading on earlier occasions more than the wagons expected to be unloaded by them. It does not deserve much consideration since the failure to unload the wagons on 28-9-2007 is mainly stated to be due to the unauthorized absence of the 36 D.P.S. workers.

18. Before the disposal of the leave applications submitted by the D.P.S. workers management cannot be heard to say that they had unauthorisedly absented themselves on 28-9-2007. It is also not fair to make all the D.P.S. workers liable equally for the D.C. as some of them had applied for leave, some of them on continued long absence and others without submitting any leave application.

19. In view of the aspects discussed above it cannot be held that it is owing to the wilful absence of the 36 D.P.S. workers the D.C. was incurred due to the non-clearance of the wagons within the free time.

20. **Point No. 2 :** There is no express provision in Ext. M2 which enables the management to recover the D.C. from the D.P.S. workers. In para 7 of the written statement it is contended that as per the modified instructions issued after the introduction of the D.P.S. Scheme whenever D.C. is incurred by the Food Corporation of India to clear the wagons in time the same can be recovered from the erring workers. There is absolutely no documentary evidence in this case to prove that there was any such modified instructions. Clause 15 of Ext. M2 provides that the workers found indulging in disobedience, misconduct etc. shall be subject to action under Model Standing Orders provided in Industrial Employment (Standing Orders) Act, 1946. As per Section 14 of the said Act disciplinary action can be initiated against the workman for misconduct and a workman can be fined up to 2% of his wages in a month for the acts and omissions which are notified with the previous approval of the government or of the prescribed authority in pursuance of Section 8 of the Payment of Wages Act, 1946. It was submitted by the learned counsel for both sides that no notification has so far been issued by the management specifying the acts and omissions amounting to misconduct. The decision to recover the D.C. from the D.P.S. workers taken by the management cannot be said to be in accordance with that provision in the said Act.

21. Learned counsel for the management was not able to point out any statutory provision, rule or any agreement which permits the management to recover the D.C. from the D.P.S. workers in this case without any enquiry. It is already found that it is not due to the deliberate non-attendance of the workers which resulted in incurring the D.C. There is also nothing on record to

Ansly that the management is entitled to recover the same from the wages of all the absentee D.P.S. workers.

22. In view of the above discussion I find that the action of the management to recover the D.C. from the wages of the 36 D.P.S. workers in the list attached to the reference is not legal and justified.

23. **Point No. 3 :** It is already found that the action of the management to recover the D.C. from the wages of the 36 D.P.S. workers is not legal and justified. Hence the management is not entitled to recover the D.C. from their wages.

The award will come into force one month after its publication in the Official Gazette.

Dictated to the Personal Assistant, transcribed and typed by her, corrected and passed by me on this the 24th day of February, 2012.

D. SREEVALLABHAN, Presiding Officer

Appendix

Witness for the Unions :

K. P. Shaji, Secretary, F.C.I. Workers Association (CITL), FCI Depot, Chingavanam Unit, Chingavanam.

Witness for the Management :

M. Kandamuthan, Area Manager, FCI District Office, Chingavanam, Kottayam.

Exhibits for the Unions – Nil

Exhibits for the Management:

M1	Photocopy of the Letter No. FC-I/2005/201/2 Pt. D of Government of India, Ministry of Railway, Railway Board dated 10-10-2006.	M5	Letter No. V/C. 200/DC/FCI/CGV/6/07 dated 26-11-2007 addressed to the Area Manager, Food Corporation of India, District Office, Kottayam by the Senior Divisional Commercial Manager of the Southern Railway.
M6		Photocopy of Receipt No. CGV/FCI/DC/P-11/1 dated 30-11-2010 issued by the Station Master, Southern Railway, Chingavanam for payment of demurrage charges.	
M7		Memo No. IR-L/32/5(3)/07 dated 31-10-2007 issued to the D.P.S. workers from the Food Corporation of India, District Office, Kottayam.	
M8		Notes/draft prepared for recovery proceedings for the realization of demurrage charges from 36 workers in the office of the Food Corporation of India, Kerala Region, Kottayam.	
M9		Office copy of the proceedings No. IRL/32(5)4/2007 dated 7-1-2008 of the Food Corporation of India, District Office, Kottayam.	
M10		Photocopy of the leave application dated 28-9-2007 submitted by Shri K. C. Kurian, D.P.S. worker for granting leave on 28-9-2007 and 29-9-2007.	
M10(a)		Photocopy of the leave application dated 29-9-2007 submitted by Shri N. K. Kunjumon, D.P.S. worker for granting leave on 28-9-2007.	
M10(b)		Photocopy of the leave application dated 29-9-2007 submitted by Shri K. K. Vijayan, D.P.S. worker for granting leave on 12-9-2007, 25-9-2007 and 28-9-2007.	
M10(c)		Photocopy of the leave application dated 29-9-2007 submitted by Shri T. K. Thankappan, D.P.S. worker for granting leave on 22-9-2007, 25-9-2007 and 28-9-2007.	
M10(d)		Photocopy of the leave application dated 29-9-2007 submitted by Shri P. P. Kunjumon, D.P.S. worker for granting leave on 28-9-2007.	
M10(e)		Photocopy of the leave application dated 29-9-2007 submitted by Shri A. T. Baby, D.P.S. worker for granting leave on 28-9-2007.	

M 10(f)	Photocopy of the leave application dated 29-9-2007 submitted by Shri A. A. Kuriachan, D.P.S. worker for granting leave on 28-9-2007.	M 11(b)	Photocopy of the leave application dated 25-9-2007 submitted by Shri K. C. Ravi, D.P.S. worker for granting leave on 22-9-2007, 25-9-2007 to 1-10-2007.
M 10(g)	Photocopy of the leave application dated 5-10-2007 submitted by Shri B. Madhusudanan, D.P.S. worker for granting leave on 28-9-2007.	M 11(c)	Photocopy of the leave application dated 3-10-2007 submitted by Shri T. K. Rajan, D.P.S. worker for granting leave on 24-9-2007 to 1-10-2007.
M 10(h)	Photocopy of the leave application dated 29-9-2007 submitted by Shri V. T. Gopi, D.P.S. worker for granting leave on 28-9-2007.	M 11(d)	Photocopy of the leave application dated 22-10-2007 submitted by Shri K. K. Sasi, D.P.S. worker for granting leave on 27-9-2007 to 21-10-2007.
M 10(i)	Photocopy of the leave application dated 29-9-2007 submitted by Shri T. C. Sreekumar, D.P.S. worker for granting leave on 28-9-2007.	M 11(e)	Photocopy of the leave application dated Nil submitted by Shri Roy Varghese, D.P.S. worker for granting leave on 24-9-2007 to 14-10-2007.
M 10(j)	Photocopy of the leave application dated 29-9-2007 submitted by Shri T. K. Shaji, D.P.S. worker for granting leave on 25-9-2007 and 28-9-2007.	M 11(f)	Photocopy of the leave application dated 16-10-2007 submitted by Shri K. K. Shaju, D.P.S. worker for granting leave on 11-9-2007 to 4-10-2007.
M 10(k)	Photocopy of the leave application dated 1-10-2007 submitted by Shri T. K. Babu, D.P.S. worker for granting leave on 28-9-2007 and 29-9-2007.	M 12	Letter No. S and C/25(40)/97 dated 10-3-2008 sent by Manager (S and C), For Area Manager, FCI, District Office, Kottayam to Shri V.B. Shajimon, DPS No. 40.
M 10(l)	Photocopy of the leave application dated 29-9-2007 submitted by Shri P. K. Krishnankutty, D.P.S. worker for granting leave on 28-9-2007.	M 13	Proceedings No. S and C/25(40)/97 of Shri V. G R. Nair, Area Manager proposing penalty.
M 10(m)	Photocopy of the leave application dated 29-9-2007 submitted by Shri K. D. Mohandas, D.P.S. worker for granting leave on 25-9-2007, 26-9-2007 and 28-9-2007.	M 14	Memo No. S and C/25(44)/97 dated 21-10-2008 issued by T. J. Esther, Area Manager and Disciplinary Authority, FCI, District Office, Kottayam.
M 10(n)	Photocopy of the leave application dated 29-9-2007 submitted by Shri T. K. Sali, D.P.S. worker for granting leave on 28-9-2007.	M 15	Memo No. DOM.INQ/KKV/187/DO.CGV dated 30-11-2007 issued by M. Presenan, Manager (QC) FCI, RO, Trivandrum, Inquiry Officer.
M 10(o)	Photocopy of the leave application dated 1-10-2007 submitted by Shri Mathew George, D.P.S. worker for granting leave on 28-9-2007 and 29-9-2007.	M 16	Photocopy of the Attendance Register for the month of July 2007 of the FCI, Kerala Region.
M 11	Photocopy of the leave application dated 1-10-2007 submitted by Shri K. K. Rajappan, D.P.S. worker for granting leave on 25-9-2007 to 29-9-2007.	M 17	Photocopy of the Attendance Register for the month of August 2007 of the FCI, Kerala Region.
M 11(a)	Photocopy of the leave application dated 18-9-2007 submitted by Shri S. Mohanan, D.P.S. worker for granting leave on 19-9-2007 to 29-9-2007.	M 18	Photocopy of the Attendance Register for the month of September 2007 of the FCI, Kerala Region.
		M 19	Photocopy of daily statement of issues from Depots of FCI dated 20-2-2009.
		M 20	Photocopies of relevant pages of Register of Wagons unloaded at Rail-Head/Godown-Siding, FCI.

M21

Representation dated 31-1-2008 submitted by Shri K. T. Sasi, FCI Workers' Association, CITU, Chingavanam before the Assistant Labour Commissioner (Central).

M22

Photocopies of relevant pages of Register of Wagons unloaded at Rail-Head/Godown of FCI.

D. SREEVALLABHAN, Presiding Officer
नई दिल्ली, 14 मार्च, 2012

का.आ. 1282.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार उत्तर पूर्व रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, लखनऊ के पंचाट (संदर्भ संख्या 28/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार तो 14-3-2012 को प्राप्त हुआ था।

[फा. सं. एल-41012/05/2008-आई आर (बी-1)]
रमेश सिंह, डेस्क अधिकारी

New Delhi, the 14th March, 2012

S.O. 1282.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 28/2008) of the Central Government Industrial Tribunal-cum-Labour Court, Lucknow as shown in the Annexure, in the industrial dispute between the management of North East Railway, and their workmen, received by the Central Government on 14-3-2012.

[F. No. L-41012/05/2008-IR(B-I)]
RAMESH SINGH, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW

PRESENT:

DR. MANJU NIGAM, Presiding Officer.

I. D. No. 28/2008

Ref. No. L-41012/05/2008-IR (B-I) dated : 9-4-2008

BETWEEN

The General Secretary
Purvottar Railway Shramik Sangh,
C/o Sri Pravin Kumar Tiwari,
96/196, Purana Ganeshganj,
Lucknow.
(Espousing cause of Shri Kaushal Kishore)

AND

1. Senior Section Engineer (Rail Path)
North East Railway,
Lakhimpur (UP).
2. Pravar Mandal Abhiyanta
N.E. Rly, Ashok Marg,
Lucknow.
3. Assistant Engineer
North East Rly.,
Sitapur.

AWARD

I. By order No. L-41012/05/2008-IR (B-I), dated 9-4-2008 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between the General Secretary, Purvottar Railway Shramik Sangh, C/o Sri Pravin Kumar Tiwari, 96/196, Purana Ganeshganj, Lucknow and Senior Section Engineer (Rail Path), North East Railway, Lakhimpur (UP) and Pravar Mandal Abhiyanta, N.E. Rly, Ashok Marg, Lucknow and Assistant Engineer, North East Rly. Sitapur for adjudication.

2. The reference under adjudication is :

"Kya Purvottar Railway dwara Shri Kaushal Kishore Putra Swa. Paikarma, substitute Gangman ko Award ke upraant Dinank 5-3-1986 ke sthaan par Dinank 17-7-2011 se temporary status dekar purv ki sewaon ke Adhaar par Padonnati Laab se Vanchit Rakha Jaana Nayoychit Evam Vaidh hai ? Yadi Nahi, to Kaamgaar, kis Raahat ko Pane ka Hakdaar hai."

3. The case of the workman's union, in brief, is that his services of the workman viz. Kaushal Kishore have been terminated by the railway administration w.e.f. 5-3-86 without following legal procedures and accordingly the alleged arbitrary action of the management in terminating the services of the workman was set aside by the Hon'ble CGIT-cum-Labour Court, Kanpur and he was reinstated with back wages and other consequential benefits. The management of the railway in compliance thereof allowed the workman to join as substitute Gangman w.e.f. 17-7-2001 and paid salary for the period 5-3-86 to the date of joining; but has not been provided other consequential benefits such as continuity in services which has led him various loss, which includes loss of seniority and denial of promotion. Accordingly, the workman's union has prayed that the management of the railways be directed to treat the workman in continuous services w.e.f. 5-3-86, the date of his termination, in view of award of CGIT-cum-Labour Court, Kanpur; and the workman be given consequential benefits accordingly.

4. After filing of statement of claim, the opposite parties were called upon to file their written statement and were issued registered notice dated 28-7-2009 and in response thereto Shri Rahul Nigam, advocate filed his authority on behalf of the opposite party. The authorized representative did not turn up on several dates, which led to ex-parte against the management and 12-12-2011 was fixed for ex-parte evidence. The parties remained absent on 12-12-2011, 23-1-2012 and 8-2-2012 and when the workman's union did not bother to file its evidence, the case was reserved for award, keeping in view long pendency of the case and reluctance of the parties to contest their cases.

5. I have gone through the entire material placed on file and scanned each and every document available therein.

6. It was the case of the workman's union that he was not given continuity of service in compliance of award of CGIT-cum-Labour Court, Kanpur and accordingly was denied of the relief extended to him by said award of Tribunal.

7. The workman's union has not filed any documentary evidence in support of its claim nor has turned up to substantiate its case through oral evidence. It has not bothered to file even the copy of the award of CGIT-cum-Labour Court, Kanpur so that this Tribunal could ascertain the actual relief granted to the workman by the CGIT-cum-Labour Court, Kanpur.

8. It is well settled that if a party challenges the legality of order, the burden lies upon it to prove illegality of the order and if no evidence is produced by the party, invoking jurisdiction of the court, must fail. In the present case burden was on the workman's union to set out the grounds to challenge the validity of the action of the management in not giving the continuity of service to the workman, in compliance of award of the CGIT-cum-Labour Court, Kanpur. Although the management did not come forward to deny this claim of the workman's union even then it was for the workman's union to lead evidence, documentary as well as oral, to show that the alleged injustice was being done to the workman.

9. In 2008 (118) FLR 1164 M/s. Uptron Powertronics Employees' Union, Ghaziabad through its Secretary vs. Presiding Officer, Labour Court (II), Ghaziabad and others, Hon'ble High Court relied upon the law settled by the Apex Court in 1979 (39) FLR 70 (SC) Sanker Chakravarti vs. Britannia Biscuit Co. Ltd., 1979 (39) FLR 70 (SC) V. K. Raj Industries vs. Labour Court and others, 1984 (49) FLR 38 Airtech Private Limited vs. State of U.P. and others and 1996 (74) FLR 2004 (Alld.) Meritech India Ltd. vs. State of U.P. and others; wherein it was observed by the Apex Court :

"that in absence of any evidence led by or on behalf of the workman the reference is bound to be

answered by the Court against the workman. In such a situation it is not necessary for the employers to lead any evidence at all. The obligation to lead evidence to establish an allegation made by a party is on the party making the allegation. The test would be, who would fail if no evidence is led."

10. In the present case the workman's union has not turned up to substantiate its case by way of filing any oral evidence. Mere pleadings are no substitute for proof. It was obligatory on the part of workman's union to come forward with the case that the workman was actually not given all benefits, he was extended by the award of CGIT-cum-Labour Court, Kanpur; but the workman's union has failed to forward any substantive evidence in support of its claim, as it did not turn up for filing its evidence before this Tribunal, in spite of ample opportunity being provided to it. There is no reliable material for recording findings that the alleged injustice was done to the workman or the action of the management of North East Railway in not giving temporary status to the workman w.e.f. 5-3-1986 instead of 17-7-2001 and depriving him benefits of earlier service was unjustified and illegal.

11. Accordingly, the reference is adjudicated against the workman's union; and as such, I come to the conclusion that the workman, Kaushal Kishore is not entitled to any of the relief(s) claimed by him.

12. Award as above.

Lucknow DR. MANJU NIGAM, Presiding Officer
27-2-2011

नई दिल्ली, 15 मार्च, 2012

का.आ. 1283.—केन्द्र सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 (यथासंशोधित 1987) के नियम 10 के उप-नियम (4) के अनुसरण में, श्रम और रोजगार मंत्रालय के प्रशासकीय नियंत्रणाधीन निम्नलिखित कार्यालयों को, जिनके न्यूनतम 80 प्रतिशत कर्मचारियों ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, एतद्वारा अधिसूचित करती है :

उप-क्षेत्रीय कार्यालय,
कर्मचारी राज्य बीमा निगम,
उदयपुर
प्रभागीय कार्यालय,
कर्मचारी राज्य बीमा निगम,
जोधपुर

[फा. सं. ई-11017/1/2006-रा.भा.नि.]

चन्द्र प्रकाश, संयुक्त सचिव

New Delhi, the 15th March, 2012

S.O. 1283.—In pursuance of Sub-Rule (4) of Rule 10 of the Official Language (Use for official purposes of the Union) Rules, 1976 (as amended 1987) the Central Government hereby notifies following offices under the administrative control of the Ministry of Labour and

Employment, at least 80% Staff whereof have acquired working knowledge of Hindi :

Sub-Regional Office,
Employees State Insurance Corporation,
Udaipur
Divisional Office,
Employees State Insurance Corporation,
Jodhpur

[F. No. E-11017/1/2006-RBN]
CHANDRA PRAKASH, Jt. Secy.

नई दिल्ली, 26 मार्च, 2012

का. आ. 1284.—केन्द्रीय सरकार संतुष्ट है कि लोकहित में ऐसा अपेक्षित है कि हिन्दुस्तान एरोनाइक्स लिमिटेड में सेवाओं को जिसे औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की प्रथम अनुसूची की प्रविष्ट 8 के अन्तर्गत निर्दिष्ट किया गया है, उक्त अधिनियम के प्रयोजनों के लिए लोक उपयोगी सेवाएं घोषित किया जाना चाहिए।

अतः अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (d) के उप-खण्ड (6) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार उक्त उद्योगों/प्रतिष्ठानों को उपर्युक्त अधिनियम के प्रयोजनों के लिए तत्काल प्रभाव से छः मास की कालावधि के लिए लोक उपयोगी सेवा घोषित करती है।

[फा. सं. एस-11017/1/2003-आई आर (पी एल)]

चन्द्र प्रकाश, संयुक्त सचिव

New Delhi, the 26th March, 2012

S.O. 1284.—Whereas the Central Government is satisfied that the public interest so requires that the service in the Hindustan Aeronautics Limited as Public Utility Service which is covered by item 8 of the First Schedule to the Industrial Disputes Act, 1947 (14 of 1947), should be declared to be a Public Utility Service for the purposes of the said Act.

Now, therefore, in exercise of the powers conferred by sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947, the Central Government hereby declares with immediate effect the said industry to be a Public Utility Service for the purpose of the said Act for a period of six months.

[F. No. S-11017/1/2003-IR(PL)]
CHANDRA PRAKASH, Jt. Secy.

नई दिल्ली, 2 अप्रैल, 2012

का. आ. 1285.—जबकि केन्द्रीय सरकार संतुष्ट है कि लोकहित में ऐसा अपेक्षित है कि वित्त मंत्रालय के अधीन निम्नलिखित उद्योगों/प्रतिष्ठानों की सेवाओं को जिन्हें औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की प्रथम अनुसूची की विभिन्न मढ़ों के अन्तर्गत शामिल किया गया है, उक्त अधिनियम के प्रयोजनों के लिए लोक उपयोगी सेवाएं घोषित किया जाना चाहिए, नामतः

(1) भारत सरकार टकसाल, कोलकाता, नोएडा, मुम्बई, हैदराबाद और चेन्नईपल्ली जिन्हें प्रथम सूची की मद

संख्या 11 में शामिल किया गया है;

- (2) भारतीय सुरक्षा मुद्रणालय, नासिक जिसे प्रथम सूची की मद संख्या 12 में शामिल किया गया है;
- (3) मिक्स्यूरिटी प्रिंटिंग प्रैस, हैदराबाद जिसे प्रथम सूची की मद संख्या 12 में शामिल किया गया है;
- (4) सिक्यूरिटी पेपर मिल, होशंगाबाद जिसे प्रथम सूची की मद संख्या 21 में शामिल किया गया है;
- (5) बैंक नोट प्रैस, देवास जिसे प्रथम सूची की मद संख्या 22 में शामिल किया गया है;
- (6) करैंसी नोट प्रैस, नासिक रोड जिसे प्रथम सूची की मद संख्या 25 में शामिल किया गया है;

अतः अब, औद्योगिक विवाद अधिनियम, 1947 की धारा 2 के खण्ड (d) के उप-खण्ड (vi) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार उक्त उद्योगों/प्रतिष्ठानों को उपर्युक्त अधिनियम के प्रयोजनों के लिए तत्काल प्रभाव से छः मास की अवधि के लिए लोक उपयोगी सेवा घोषित करती है।

[फा. सं. एस-11017/4/2011-आई आर (पी एल)]

चन्द्र प्रकाश, संयुक्त सचिव

New Delhi, the 2nd April, 2012

S.O. 1285.—Whereas the Central Government being satisfied that the public interest so requires that the services engaged in the following industries/establishments under the Ministry of Finance which are covered under different items of the First Schedule to the Industrial Disputes Act, 1947 (14 of 1947), as under, should be declared as Public Utility Services for the purposes of the said Act :

- (1) India Government Mints, Kolkata, Noida, Mumbai, Hyderabad and Cheriapally which is covered by item No. 11 of the First Schedule;
- (2) India Security Press, Nashik, which is covered by item No. 12 of the First Schedule;
- (3) Security Printing Press, Hyderabad, which is covered by item No. 12 of the First Schedule;
- (4) Security Paper Mill, Hoshangabad, which is covered by item No. 21 of the First Schedule;
- (5) Bank Note Press, Dewas, which is covered by item No. 22 of the First Schedule;
- (6) Currency Note Press, Nashik Road, which is covered by item No. 25 of the First Schedule.

Now, therefore, in exercise of the powers conferred by sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947, the Central Government hereby declares with immediate effect the said industries/establishments to be a Public Utility Service for the purpose of the said Act for a period of six months.

[F. No. S-11017/4/2011-IR(PL)]

CHANDRA PRAKASH, Jt. Secy.